

**EXPLORING THE ROLE OF COMPETENCY ASSESSMENTS IN FORENSIC
INTERVIEWING FOR CHILD VICTIMS OF SEX OFFENCES BETWEEN FIVE TO
TEN YEARS OLD**

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**SUBMITTED IN PARTIAL FULFILMENT OF THE REQUIREMENTS FOR THE
MASTERS DEGREE IN SOCIAL WORK: PROBATION AND CORRECTIONAL
PRACTICE**

AT THE



UNIVERSITY OF CAPE TOWN

SUPERVISOR: DR. LEON HOLTZHAUSEN

DATE: 21 NOVEMBER 2014

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ABSTRACT

The following research presents an exploration on the role that competency assessments and competency reports play in child sexual abuse cases. This research is informed by forensic social workers in practice within the Gauteng Province. The respondents work both within government organisations and non-government organisations.

This research uses a mixed methodology approach to explore practices around competency assessments and competency reports. The respondents completed two forms of data collection namely a survey and were part of a focus group which was conducted by the researcher. The findings therefore presents both quantitative and qualitative data, and are discussed to further elaborate on practices within the Gauteng Province. Conclusions and recommendations were made by both the researcher and the respondents, which are supported by the findings of this research and existing literature in the field.

ACKNOWLEDGEMENTS

First and foremost, appreciation and thanks is to be given to my God for allowing me to come this far in my academic career and for placing such supportive people in my life. To my family and friends for the utmost support during this process, thank you. To my supervisor, thank you for your support in this process, this has allowed me to explore my potential in the field. A special thank you goes to the Department of Community Safety, Gauteng Province for allowing me this great opportunity. Most importantly, a great thank you to the respondents of this study.

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CHAPTER 1: INTRODUCTION

1.1 INTRODUCTION

Forensic social work (FSW) is a professional specialty that focuses on the interface between society's legal and human service systems. It includes such activities as providing expert testimony in a court of law, investigating cases of possible criminal conduct, and assisting the legal system in such issues as child sexual abuse (Barker & Branson, 2002: 5). In child sexual abuse cases, skilful forensic interviews are important to ensure the protection of innocent individuals and the conviction of perpetrators. One of the key functions of FSW is the provisioning of competency reports to criminal courts in cases of alleged child sexual abuse. According to Mnisi (2010), a competency report is used to determine the reliability of the testimony of the child, a crucial step in the South African criminal law and procedure. Embedded in the compiling of a competency report is the ability to accurately assess and interview the child witness. This is important because faulty interviewing can lead to serious consequences for both the child and alleged perpetrator. These may include eliciting false allegations, putting children and families through unnecessary stress, decreasing a child victim's credibility in court, contaminating facts, reducing probability of conviction, draining resources through unsuccessful trials and investigations, and reducing resources available for legitimate abuse cases (Wood & Garven, 2000). To avoid these negative outcomes, current interviewing techniques utilized during competency assessments must be continuously examined and revised as necessary. The purpose of the research is to explore the views of Forensic Social Workers (FSW) regarding competency assessments in forensic interviewing for child victims of sex offences between five to ten years old.

1.2 BACKGROUND TO THE PROBLEM

Many persons working in the profession of FSW are workers who have not necessarily entered the profession based on having credentials for the types of services they render. Often social workers who fulfill these roles within the field obtain these positions due to experience within this setting, or they have a post graduate qualification in the field. As the specialization of FSW is still in the process, many of the professionals employed as FSW's do not possess the specialized credentials required of them. There is only one university who offers a FSW degree at a post-graduate level, namely North-West University: Potchefstroom Campus, (http://www.nwu.ac.za/SchoolPBS/qualifications_masters.html, viewed at 10 March 2014).

There is therefore a need for more institutions to offer such training within South Africa and for persons working in the field to acquire this specialized knowledge.

“Specialist social work practice is defined as an approach characterized by the application of selected knowledge and skills to a narrowed area of practice premised on practice setting, population group served, social problems addressed and/or practice intervention mode used.” (Holtzhausen et al., 2012: 7) From this definition of specialist social work, it is evident that specialist knowledge is required by staff in order to fulfill the role of FSW’s within various practice settings. If persons who are in this line of work do not possess the specialised knowledge and arguably, skills needed, they would most likely not be able to do an effective job according to what is required of them. This is a significant limitation within South Africa and the standard of service delivery from these professionals. Similarly, child sexual abuse is rife in South Africa. According to Mengel (2008), over sixty thousand cases of sexual offences are gathered annually in South Africa, of which almost half are child sexual abuse cases that have been reported. According to Vetten, Jewkes, Sigsworth, Christofides, Loots and Dunseith (2008), girls aged between 0-11 years old were twice as likely to be sexually abused by persons known to them, with the abuse occurring in their own homes. Children need to be protected from these types of occurrences and persons should know how to identify children who are being abused and what to do with this information. Therefore, awareness of all key role-players in cases of child sexual abuse is vital. Within this field of practice there are many role players involved; and the core multi-disciplinary team includes the South African Police Services (SAPS), Prosecutors, Magistrates and FSW’s. Each of these role-players has a certain contribution to meet the intricate needs of human beings who require their services. They should be efficient in their role, which requires certain skills and expectations to be met.

1.3 RATIONALE OF THE STUDY

The knowledge and expertise of the professionals should be of a high standard in order to improve service delivery in the country. Ultimately, the justice system would like to reach a stage of conviction of the perpetrators which is influenced by numerous variables. There is increasing evidence that South Africa has low conviction rates in cases of alleged child sexual abuse, with various challenges experienced by social workers to provide the professional inputs in legal and police procedures and processes. “Fifty five percent of young girls’ cases led to an arrest, but only 22.1% went to trial and 10.1% resulted in a conviction.” (Vetten et al., 2008: 8). This research aims to explore one aspect of FSW, which is known as the Forensic Interview.

Within the Forensic Interview, there is a phase where one conducts a Competency Assessment and may be requested to compile a Competency Report in order to determine whether the child is competent to stand trial and/or be a witness in the case. This allows for a better understanding of the role it plays in contributing to the process in convicting these criminals through evidence given by child witnesses (the victims of sexual abuse).

Competency assessments and competency reports are crucial to strengthen cases which go to trial for child sexual abuse, and are paramount in providing evidence to increase conviction rates of perpetrators within South Africa. An important task of FSW work is to conduct assessments regarding the competency of victims to stand trial in court, which includes those with mental illnesses and to establish whether these individuals have insight into what has occurred to them. According to Vetten et al., (2008), only 24.19% of children between five and eight years old, and 35.17% of children between nine and twelve years old are deemed 'competent' to stand trial as child witnesses. Therefore in determining knowledge regarding how to conduct competency assessments and the importance of correctly compiling competency reports is a vital skill for FSW's to acquire. This research contributes to the knowledge of practices needed to be competent in administering competency assessment of child victims of sex abuse between ages five and ten years old.

During April 2013, the Department of Social Development, University of Cape Town (UCT) was invited to an historical meeting with senior management from the Department of Community Safety (DCS) and members of SAPS, Gauteng on the importance of FSW in the investigation of alleged child sexual abuse cases in Gauteng. At the meeting, members from the SAPS and DCS discussed the need for ongoing specialised training in forensic interviewing and compiling of competency reports. This meeting highlighted the importance of providing opportunities for child victims of sexual abuse having their voices heard in the South African Criminal Law and Procedure. Furthermore, it was mentioned that low conviction rates in child sexual abuse cases could be countermanded if the child is found to be competent to testify, especially to support and corroborate any further evidence in these cases. This experience led the researcher to pursue a study of competency assessments and competency reports within the field of FSW.

1.4 SIGNIFICANCE OF THE STUDY

One of the roles of FSW's is to provide the court with a competency report, which provides insight into how to effectively handle the case with regards to the child (victim) and to inform the rest of the multi-disciplinary team. According to Mnisi (2010), FSW's submit competency reports to criminal courts to assist the court in assessing the competence of the child witness in cases of child sexual abuse. FSW's are in the front line for starting the court process and are required to make judgment statements that have implications for the lives of people (both the perpetrator and victim). Competency reports are important because if a child is not deemed competent to stand trial it may influence the outcome of these cases substantially due to mitigating factors or a lack of evidence. Therefore it is integral that the work which FSW's pursue with child victims of sexual abuse is professional, sound, empirical and trustworthy.

This study intends to shed light on current practices within the Gauteng Province and hopefully assist in determining training needs of persons who work within this field. As children are defined up until the age of eighteen years old according to the Constitution of the Republic of South Africa (1996), this cohort for the research is too big to determine. This study therefore only targets victims of child sexual abuse aged five to ten years old as this is an age cohort that often children are victimised for child abuse. Similarly, for person's practicing FSW, this may be a learning tool which may benefit a practitioner in understanding ways in which other practitioners practice and establish best-practice FSW. This research aims to promote a uniformed standard of conducting competency assessments and writing competency reports, which will benefit everyone in the judicial system in understanding how best to use these tools within court, and their role for administering them. This could provide basic guidelines with regard to expectations required from FSW's, and give effect to the function of assessment.

1.5 RESEARCH TOPIC

The topic under study is around exploring the role of competency assessments in forensic interviewing for child victims of sex offences between five and ten years old. This topic will be explored by asking the following questions.

1.6 MAIN RESEARCH QUESTIONS

1. What is the role and importance of competency assessment and competency reports in the forensic interviewing process?

2. What is required in the assessment process from the court of the forensic social workers?
3. What are the legal requirements to establish the competency of a child to stand trial?

1.7 MAIN ASSUMPTIONS

1. There is fragmented understanding amongst role players of what should be included in a competency assessment and competency report.
2. If a standardised competency assessment framework is established and administered effectively, the rates of prosecution of child sex offenders would be higher.
3. The FSW's are not knowledgeable of the legal requirements and sanctions they have to adhere to for a child to be deemed competent.

1.8 RESEARCH OBJECTIVES

1. To establish the importance of competency assessment and competency reports in the forensic interviewing process.
2. To standardise the requirements of what should be included in a competency assessment and competency report.
3. To establish the legal requirements for determining competency of a child witness.

1.9 CLARIFICATION OF TERMS

1. Competency Assessment: A competency assessment forms part of a Forensic Interview conducted by FSWs as stipulated in Fouché and Joubert (2009) Seven-phase Forensic Interview Protocol. According to Cheung (2003), this assessment establishes the types of questions children are able to answer, their ability to differentiate between truth and lie and the understanding the importance of speaking the truth.
2. Forensic Interview: Within this interview, one gathers information from the child, in his or her own words about what has happened. The primary objective is to gather information that will render a plausible hypothesis for referral: gathering the truth if the allegation of the abuse is valid, and if it is fictitious, gather information that corroborates that conclusion (Faller, 2007).

3. Child: According to the Constitution of the Republic of South Africa (1996), a child is defined as a person under the age of eighteen years old. In the context of this research, the researcher is focusing on a child aged between five and ten years old.
4. Victims: “A victim can be defined as any person who has suffered physical, emotional or mental harm because of another person’s actions. A country’s civil and constitutional law covers the victimization of a group.” (Holtzhausen et al., 2012: 76).
5. Sexual offences: According to the Sexual Offences and Related Matters Amendment Act of 2007, child sexual abuse is defined as any child (under the age of eighteen years) who has been violated in terms of incestuous acts they do not comprehend, and cannot consent to legally. Various acts may constitute a sexual offence, such as child pornography, sexual penetration, and sexual violation, self-masturbation, displaying genital organs or anus and using stimulations for various reasons even for stimulation of a sexual nature.
6. Competency reports: According to Mnisi (2010), competency reports are submitted by FSW’s to criminal courts to assist the court in assessing the competence of the child witness in cases of child sexual abuse.

1.10 STRUCTURE OF THE RESEARCH REPORT

1. Chapter 1: Introduction
2. Chapter 2: Literature Review
3. Chapter 3: Methodology
4. Chapter 4: Discussion Findings
5. Chapter 5: Conclusions and Recommendations

1.11 ETHICAL CONSIDERATIONS

Ethical considerations give effect to the ethics of the profession and acknowledge that during the research process the researcher was cognizant of the ethics in the profession, which needs to be adhered to within this process. The researcher gained permission from the Research Ethical Committee at the University of Cape Town to conduct this research, by means of submitting a research proposal including the research instruments. The ethical considerations made in this research are in light of De Vos, Delpont, Fouché and Strydom (2011), who give guidelines for professional ethics when conducting research.

- Informed Consent consists of informing the respondents of the purpose of the study and the value it will contribute to the clientele. The researcher had informed the respondents of the rationale of the study and had ensured verbal and written consent to partake in the survey (see Appendix A). This was done to gain voluntary permission from the respondents, build rapport with them and increase chances of the response rate while still informing them of their right to withdraw of the process at any time. Similarly, introducing the focus group to the respondents, they were informed of the purpose thereof and split into two groups, and was asked to sign a consent form to indicate their voluntary participation and had the right to withdraw at any point in the process (see Appendix B).
- The Ethical Rights of ‘Confidentiality’ and ‘Anonymity’ of the respondents are of utmost importance. To ensure that the respondents respond to the tools used in the research effectively, rapport was built with the respondents and emphasis made on the importance of confidentiality and anonymity in conducting this research. It was communicated to the respondents that their names are not required for the research and will not be mentioned in the research report. This information was shared at the point of gaining voluntary consent from the respondents for both the survey and/or focus group administration. Both the respondent and the researcher signed these consent forms, which stipulate the purpose of the research and the principle of confidentiality. The respondents were informed that the information will only be used for the purpose explained to them and the analysis of information will only be seen by the researcher and her supervisor.
- ‘Competence of the researcher’ is of utmost importance to firstly be able to administer the research process, and ensure that ethical and sound research is conducted, which is contributory to furthering knowledge within this field. The researcher has experience in the research process and is confident in her skills to conduct research. She has knowledge about surveys and focus groups and is confident in her skills, and has taken necessary precautions to buffer the disadvantages of these processes.

1.12 REFLEXIVITY

The researcher feels fairly confident and competent in conducting research due to previous experiences of having to complete a research report. However, feelings of working with people

from a new province and a new environment were overwhelming and exciting at the same time. Similarly, having not conducted research of a mixed methodology before, this was daunting; however, with direction and guidance of her supervisor throughout the research process has helped greatly and made her confident in her work. Having a supervisor who was always present and available when help and guidance was needed allowed her to advance through any mishaps she might have encountered.

1.13 CONCLUSION

This chapter had taken one through a journey of understanding the research: firstly, the field of study was introduced, as well as FSW and what their job entails in processes regarding child sexual abuse cases; secondly, a background to the research problem was explored and insight into the rationale and significance of the study was elaborated on. The layout of the research topic, main research questions, main research assumptions and the research objectives has been stipulated. A clarification of terms was provided and reflexivity for persons to gain a greater understanding when reading this research. The following chapter introduces current and empirical literature which exists and provides further knowledge on the topic under study.

CHAPTER 2: LITERATURE REVIEW

2.1 INTRODUCTION

The following chapter demonstrates an array of existing literature and knowledge in the field of FSW in relation to competency assessments and competency reports for child victims of sexual abuse. Therefore the literature will focus on the child victim aged five to ten years old and roles of the forensic social worker in relation to clientele of this age cohort. The findings of this research will hopefully shape this existing body of knowledge, with possible contributions to this growing field within South Africa.

2.2 THEORETICAL FRAMEWORKS OR MODELS

To better understand the notion of competency assessments of child victims aged five to ten years old and competency reports compiled by FSW's, one needs to understand the context of the work required by the FSW's and how they interact with children within this age cohort.

2.2.1 Protocols and Guidelines for FSW's

Within South Africa, there are Protocols or guidelines which are written for FSW's and their work pertaining to victims of child sexual abuse cases. These protocols are named the Forensic Interviewing Protocol also commonly known as the Michigan Protocol (www.michigan.gov/DHS/0,1607,7-124-5452_7119_25045---,00.html, viewed at 22 July 2014) and A Seven-phase Forensic Interview Protocol by Fouché and Joubert (2009). These protocols have various phases which together forms the forensic interview, some protocols collapse a number of phases into one stage with subsections but essentially gather the same type of information. Competency assessments form part of this assessment and may be administered independently from the forensic interview. This research however looks specifically at the competency assessment as forming part of the Seven-phase Forensic Interview Protocol by Fouché and Joubert (2009). According to Hershkowitz, Lane and Lamb (2007) child victims of sexual abuse are interviewed regarding their willingness to disclose their sexual abuse and to whom they choose to disclose. The periods which children disclose abuse varies from one week of the incidence up until two years before disclosing. Fouché and Joubert (2009) Seven-Phase Forensic Interview Protocol include (1) Rapport building and facilitation of initial verbal disclosure, (2) Ground rules, (3) Truth and lie morality check, (4) Free narrative, (5) Questioning phase, (6) Investigate multiple hypotheses and (7) Closure. The

Competency Assessment is therefore phase three in terms of Fouché and Joubert's (2009) protocol and is the focus of the research.

“The fact that children's apparent competence depends on the way in which their competency is tested is of obvious importance to legal professionals seeking the most sensitive and appropriate ways to assess children's competency.” (Carrick, Lyon and Quas, 2010: 143) It is therefore vital that practitioners understand the child victim developmentally in order to communicate effectively with the children and understand their responses in context. The RATAC Protocol for forensic interviews was established in Minnesota and is an international protocol, even though South Africa has their own protocols, their stages are consistent with the previously mentioned protocols. “The RATAC protocol is semi-structured, allowing for the development and spontaneity of each child” (Anderson, Ellefson, Lashley, Lukas, Miller, Russel, Stauffer and Weigman, 2010: 195)

2.2.1.1 Guidelines for Age-appropriate questions

The RATAC Protocol (Anderson et al., 2010) provides guidelines to interviewers in asking developmentally appropriate questions. Children between ages four and six years old are capable of responding to ‘Who, What and Where’ questions, children aged seven to eight years old may respond to the afore-mentioned and in addition ‘When’ questions. Children aged between nine and ten years old may answer the afore-mentioned questions including providing a structured report and a bit of contextual questions.

At the age of five years old, the child may easily answer who and what questions, with the ability to answer where questions. ‘Where’ commonly refers to geographical locations, and at the age of six years old, children are familiar with most prepositions. Prepositions are complex however some children are able to answer these questions without fully grasping their meaning. It is important to note that young children are able to say where things occurred if the location is a familiar place and which they can identify and/or name.

At the age of six years old, responses to ‘when’ questions are still unsettled as their ability to grasp abstract terms develop gradually due to them being concrete thinkers at this age. By the time they reach seven to eight years old they can probably tell time, recite the days of the week and read a clock; however, this does not mean they understand the significance of time. The ability to narrate details of events (structured report) occurs between nine and ten years old. Contextual details may too vary amongst children between five and ten years old however this

is most likely to be consistent in children older than ten years old. It is important to note that 'why' questions are excluded as it requires advanced cognitive skills which is developmentally unavailable to younger children.

Esplin, Hershkowitz, Horowitz, Lamb, Orbach and Sternberg (2000) tested professionals interviewing abilities with a structured protocol compared to those with non-structured protocols. The use of a structured protocol helped professionals not miss important steps in building rapport with children, creating a safe, non-disrupting environment, compared to those without a structured protocol. Similarly, educating or relaying conditions to the child as to how best to communicate with the interviewer. This appears to be a crucial step in the interviewing protocol and ensures that children's voices are heard and feel empowered by knowing that what they have to say is meaningful or relevant no matter what. Empowering victims to tell the truth, not feeling obligated to answer questions they do not know and should admit to a lack of knowledge and correct the interviewer when they are misunderstood when necessary. Their conclusion was that both interviews gained the same type of information from children. A possible premise for this finding and limitation possibly, is that interviewers who were trained in the use of the protocol were probably too scared to explore utterances made by the child due to it being a risk to being inaccurate information. According to Cronch, Hansen, and Viljoen (2006), the use of protocols are extremely useful in demonstrating the use of open ended questions and concurs with techniques provided by the forensic interview protocol.

2.2.1.2 Developmental Sensitivity

According to Camparo and Saywitz (1998), developmental sensitivity is vital within FSW and interacting with child victims. Often adults communicate with children without altering their language to that developmental level of the child, this may lead to misunderstandings and avoidable errors which may undermine the credibility of the children and/or contamination of their statements. The language used by practitioners therefore have to be simple and avoid abstract concepts, this may reflect on the 'incompetence' of the practitioner instead of that of the child. Therefore, training in literature on the development of the child is vital.

2.2.1.3 Observing children's language level

In order to assess the language level of the child, the practitioner may determine this early in the interview by talking to the child about recent events. The practitioner will be able to determine if the child's speech is intelligible, assess the amount of words used in a sentence on average, the amount of syllables and how complex the grammar is. Importantly, the practitioner should check whether the child uses the correct tense in their sentences including the correct usage of pronouns and how sophisticated the child's vocabulary is.

2.2.1.4 Content of questions

The practitioner should be aware of the age and level of cognition when asking questions as it is related to the knowledge base of the child and their ability to reason. For example, a child who has not learned how to count cannot answer questions such as 'how many times something has happened', nor have the ability to tell the practitioner what time something happened if they have not mastered that skill yet. Practitioners should therefore use short questions and sentences when speaking to children and use one-or-two syllable words. Simple tenses may be used and the use of concrete and visual terms instead of categorical terms will allow for the child to comprehend what is being asked and respond effectively. Similarly practitioners should refrain from the use of legal jargon and should be interpreted in a manner which the child understands.

2.2.1.5 Assessing children's cognitive skills

Conventional systems of measurements may be assessed to determine children's knowledge on relevant topics. Questions regarding the day of the week, month, season, year and other questions such as how tall the practitioner is may alert the practitioner of their understanding of these concepts which are complex. To assess the child's knowledge on body parts, the use of line drawings will allow the practitioner to assess their knowledge of body parts and their functions. The understanding of basic concepts such as first and last may be assessed easily by identifying toys in a row, similar to colours (utilize common colours such as red) and not uncommon colours such as turquoise. Locations are important and kinship terms for example by asking about their family and their relations, where they live and so forth. Number skills may be tested by asking them to hand you five crayons for example, and testing their understanding of feelings and thoughts or taking another person's perspective may be assessed by asking the child to discuss a parent's birthday or a character in a story.

The afore-mentioned may be conducted while building rapport with the child and simultaneously assessing the child developmentally through observation and instruction. This too will provide the practitioner with knowledge on how to effectively communicate with the child in order to administer the competency assessment. According to Carrick et al. (2010), children are most likely to identify a truth and a lie than define the difference between the two. Therefore the manner in which a child appears competent and/or not competent depends highly on the professional's knowledge on child development and how they administer the competency assessment. This theory highlights practice approaches to persons who administer competency assessments for child victims of five to ten years old. To determine the competency of a child victim of sexual abuse aged five to ten years old there are various aspects needed to be taken into consideration.

According to The Crown Prosecution Service (http://www.cps.gov.uk/legal/a_to_c/child_sexual_abuse/#a13, viewed at 22 July 2014), it is viewed that the assessment of the credibility of the child should focus more on the credibility of the allegation. There are factors which influence the credibility negatively against the child in being credible witnesses such as the time lapse between the alleged abuse and reporting the case, the account of the abuse being inconsistent, the victim 'voluntarily' going back to the abuse and whether the victim has 'lied' in previous situations. The Crown Prosecution Service therefore suggests that these factors may support the allegations instead of undermining the victims account and should have a wider approach to the credibility of the allegation rather than the child. For example, victims who are within the social services system have their 'misbehaviour' on record and influences their credibility, however, this should not be the case as not all victims have their behaviour that closely monitored.

2.2.2 Developmental Sensitivity for children between ages five to ten years old

According to Anderson et al. (2010), child development is influenced by various factors such as genetics, life experiences, culture, gender, health, disabilities, birth order, relationships and so forth. Developmental tasks too may be influenced by media influences such as television exposure and/or trauma which influence memory. Developmental considerations include memory, attention span, and comprehension, simple versus complex and concrete versus abstract.

2.2.2.1 Memory

Accessing the memory of children may be difficult and the use of cues from the practitioner is important, therefore understanding the memory functioning of children is essential. There are two types of memory namely recognition memory (where the child recognises the stimulus and is something that was previously perceived) and reconstructive memory (refers to the ability to reconstruct the context in the absence of a specific stimulus). According to Anderson et al. (2010), by the age of five years old the child has the ability to possess the capacity for recognition memory and reconstructive memory is more advanced as it relies on the child's learned narrative. Children learn what to remember and how to remember which may be reflective on cultures. Culture in the South African context is important due to some of its unique teachings such the discouragement of discussion of 'self' as opposed to that of the community or 'ubuntu'. Reconstructive memory may vary among children due to their memory being reliant on script or scripted memory. Scripted memory is a framework for their recollection based on routine and/or their daily activities and noting something distinct within that routine.

2.2.2.2 Attention span

Often forensic interviews are time consuming, especially in fulfilling the various steps in the protocol and what is required of them. Attention and developmental ability are closely related to memory as it influences thought processes and skill development, which varies from person to person. The RATAC Protocol provides a general guideline for the attention span of children; children of five years old has an attention span of twenty to twenty five minutes, and children aged six to ten years old range from thirty to forty-five minutes. Often younger children are distracted easily, however their attention span generally lasts longer as they become older. However, as easily as children can be distracted from the interviews, they can also be distracted back into the interview by means of introducing an interview tool or calling the child by their name.

2.2.2.3 Comprehension

In order for the child's ability to be maximised as competent, this is achieved by asking them questions they understand, concepts they can comprehend and asking about information that is meaningful to them. Therefore the use of appropriate language maximises the accuracy of the child's accounts and is directly linked to the suggestibility and leading of the practitioner.

2.2.2.4 Simple versus Complex

The competency of a child is influenced by the competency of the interviewer in communicating with children of this age cohort. The practitioner may assess their language development in a less anxiety provoking manner and be aware of how to interact with the child at a developmentally appropriate level. The interviewer should use simple language and short concise questions instead of compound and embedded questions. The use of difficult and complex questions requires the child to understand and remember the question in order to respond effectively, which within this age group is not developmentally appropriate.

2.2.2.5 Concrete versus Abstract

In addition to the use of simple language, the practitioner should use concrete instead of abstract language as children think literally. The use of quantifying and relational concepts are abstract and difficult for children to grasp. These concepts include various forms of measurements such as distance, quantity, time and the notion of familial connections or relationships. Children asked these questions will appear inconsistent if the practitioner does not provide context to their questions and inform the child if the topic changes and transition them into the new context. According to Mnisi (2010), a practitioner has to have a basic understanding of child development for two reasons: in order to communicate and interact with the child effectively as it plays a huge role in determining the credibility of the witness and to inform the magistrates about the cognitive development of the child as this also may influence the child's testimony.

2.3 POLICY AND LEGISLATION

FSW's play a role in the investigation and assessment of persons involved in alleged sexual abuse case which is function of FSW according to Stutterheim and Weyers (1999). The aim of the competency assessment is to aid the court in understanding the level of development and functioning of the victim to assess whether the child is able to be a witness in court. This, therefore, stresses the importance of FSW's being knowledgeable of the legislation which governs their work with children. Within South Africa the following legislation are of particular importance in fulfilling the role of a forensic social worker: the Constitution of the Republic of South Africa (1996); the Children's Act No. 38 of 2005; the Sexual Offences and Related Matters Amendment Act of 2007; and the Criminal Procedure Act 51 of 1977. These pieces of legislation guide the parameters of the forensic social worker in informing their roles and responsibilities in working with child victims and what is required of them by law.

2.3.1 The Constitution of the Republic of South Africa

The overarching piece of legislation that protects all fundamental rights of all South Africans is The Constitution of the Republic of South Africa (1996), hereafter referred to as The Constitution. The Constitution (1996) thus, allows for persons not to be discriminated against. All citizens in South Africa have the right to life, human dignity and security from violence, the right to be equal in front of the law, have his or her case heard, and have access to public services and to receive information. The Constitution (1996) makes provision of rights for all types of citizens and for special and/or vulnerable populations such as children.

South Africa has ratified with the United Nations Convention on the Rights of the Child (1989) and The African Charter on the Rights and Welfare of the child (1990). The African Charter on the Rights and Welfare of the child (1990) states: “In all judicial or administrative proceedings affecting a child who is capable of communicating his or her own views on opportunity shall be provided for the views of the child to be heard directly or through an impartial representative as a party to the proceedings, and those views shall be taken into consideration by relevant authority in accordance with the provisions of appropriate law.” One may therefore ask how the South African judicial system gives rise to hearing the voice of the children regarding matters which affect them. This may be done through intermediaries within the justice system, and is made provision for in the various pieces of legislation within South Africa. The piece of legislation which deals specifically with children and law is the Children’s Act No. 38 of 2005. The competency assessment therefore determines whether a child is competent to stand trial as a witness or whether an intermediary should be appointed to assist the child in court proceedings as a child witness.

In the words of Schoeman (2006), intermediaries help children to testify under conditions which allow for the child to give their best testimony without being enmeshed in the justice system. When an intermediary is appointed, the presiding judicial officer may rule that the relevant child witness shall give her/his evidence at any place, which is informally arranged to set the witness at ease. Within practice in South Africa, the use of intermediaries in court is optional and is based on the presiding officer to ensure that the child is comfortable in providing testimony and not exposed to undue mental stress and having to testify in the presence of the accused. The intermediary, therefore, can relate questions to the child in a manner which he/she can understand and communicate effectively.

2.3.2 The Children's Act

The Children's Act No. 38 of 2005, hereafter referred to as the Children's Act (2005) regards children to be persons under the age of eighteen years old. The Children's Act (2005) makes provision for children who are in need of care and protection including children suffering from abuse. The Children's Act (2005) does not, however, deal with cases of sexual abuse, which involves criminal charges and criminal prosecutions. "Every child that is of such an age, maturity and stage of development as to be able to participate in any matter concerning that child has the right to participate in an appropriate way and views expressed by the child must be given due consideration." (The Children's Act, 2005: 34) This is a common thread in all cases concerning children, and is in accordance with the principles entrenched in the Constitution (1996). Once the case involving a child is no longer a 'criminal case', FSW's should know to act in accordance with this regulation, they will have to refer the child for a Children's court inquiry and deem the child as being in need of care. Although it is not a criminal case any longer, the child is still in need of services and protection from harm and should not be 'dismissed' and left to carry on with life without intervention.

2.3.3 The Sexual Offences and Related Matters Amendment Act

Within the Sexual Offences and Related Matters Amendment Act of 2007, hereafter referred to as the Sexual Offences Act (2007), there are various types of sexual offences which may be committed to children including those who are mentally challenged. The Sexual Offences Act (2007) clearly stipulates that no child under the age of twelve years old is able to consent to sexual acts. Therefore, regarding this research, it would appear that children between five and ten years old who allege sexual abuse has occurred are victims of this crime and have been violated as they are unable to consent to any sexual acts. This piece of legislation does make provisions for those victims who lay a charge with SAPS in an alleged sexual offence case.

Within the Act, there are guidelines for SAPS which need to be followed in cases where charges are laid for alleged sexual offences. There are procedures which need to be followed by SAPS after an alleged offence has been reported. This piece of legislation is also used in accordance with the Criminal Procedure Act of 1977 with regards to allowing requests to appoint competent persons as intermediaries during court processes. The general provisions within this Act make provision for training on the social contexts regarding sexual offences, which provide and promote uniform norms, standards and procedures in dealing with these cases. The Sexual Offences Act (2007), therefore, makes provision for parts of the forensic interview, including

the competency of witnesses. Although the Sexual Offences Act (2007) makes for partial provision of aspects of forensic interview and the competency of witnesses, it does not provide and promote uniform norms, standards and procedures for practitioners working on cases of child sexual abuse. The need for standards and procedures, including protocols, is needed to ensure that every person is handled in the same way and is in the best interest of the child. This would ensure that all role-players when faced with these situations know exactly what is expected of them and know how to respond in a legally sound and professional manner.

2.3.4 The Criminal Procedure Act

The Criminal Procedure Act 51 of 1977, hereafter referred to as the Criminal Procedure Act (1977), lays out criminal processes regarding cases which may lead to the conviction of criminals. This piece of legislation deals with forensic interview and competency of witnesses in more detail than both the Children's Act (2005) and The Sexual Offences Act (2007). Section 193 and 194 of the Criminal Procedure Act (1977) make provisions regarding the competency of witnesses, namely that the court may question the competency or compelling evidence of witnesses. In addition, children are deemed not competent based on their 'state of mind', that is based on proof or the appearance of any mental illness or the intoxication of drugs or other substances. Similarly there is criteria used in order to determine whether the use of intermediaries are needed in respect of witnesses under the age of sixteen years old in section 170A of the Criminal Procedure Act (1977).

A need exists to stipulate specific norms, standards and procedures which practitioners need to establish when determining the competency of child witnesses. This is of utmost importance to criminal procedures in convicting accused persons in cases of sexual abuse. According to this legislation, an accused may be convicted on any evidence given by a competent witness. Therefore to convict criminals of crime in South Africa, one needs to build a strong network of legal practitioners and various role-players to curb violence in the country and know how to deal with cases, which are reported to SAPS. As these pieces of legislation deal with an array of issues concerning children, specific legislation may be needed to govern the role and responsibilities of FSW's.

2.4 DEFINING FORENSIC SOCIAL WORK

There are various definitions of FSW, which exist all over the world; however, they have a common thread of the core functions of a forensic social worker. According to Green,

Traupmann and Thorpe (2005), FSW is defined as a “practice speciality in social work that focuses on the law and educating law professionals about social welfare issues and social workers about the legal aspects of their objectives.” This definition illustrates that in order to be a forensic social worker, the person has to have a Social Work degree as this forms the basis for a specialism of this nature, years of experience within the field and/or a post. It also demonstrates FSW being at the interface of the legal system and that of social sciences.

According to Green et al., (2005), FSW’s need to be fully knowledgeable of the policies and practices which govern their work. It is important for people working in these settings to know which procedures to follow. According to the National Organisation of Forensic Social Work (NOFSW) in the United States of America, as cited in Green et al. (2005), FSW applies social work to issues relating to law and legal systems including litigation of both civil and criminal cases. This is an important aspect in terms of the law as the consequences for civil and criminal cases could result in cases being withdrawn or dismissed. This may in turn cause victims to feel further marginalised by the justice system, while offenders to ‘get away’ with their crimes and create a bad reflection on the justice system as a whole and/or reinforce an existing image of the justice system.

The roles and responsibilities of the practitioner need to be upheld and be reflective through the ‘hands-on’ work required from him/her. Due to their only being one institution which offers tertiary training to FSW’s in South Africa, and the high crime statistics within South Africa, it is vital to ensure that all persons working with this clientele are skilled accordingly. “Knowledge and understanding of mental disorders, criminal behaviour, family systems and relevant community resources are necessary as are specific analytical and evaluation skills. The ability to write objective reports and to support the rights of children and the community, while maintaining the ability to work with a wide variety of clients and customers - victims, perpetrators, custodians, legislators, defence and prosecution...” (Green et al., 2005: 148) A limitation within this field is that most of the training is acquired ‘on the job’ and is reiterated by Jonkers (2012). According to Stern (1997) as cited in Jonkers (2012), FSW’s are called into court as an expert witness, and within the study conducted, has found that often FSW’s are called for expert testimonies to answer numerous questions regarding the psychosocial functioning of the child (before and after the alleged abuse) including the specific dynamics relating to the alleged sexual abuse, explain inconsistencies in the testimony of the child and answering questions relating to the child’s competency to testify.

The NOFSW's Code of Ethics Preamble, as stated in Butters and Vaughan-Eden (2011), demonstrates that persons should be fully qualified with the required credentials, background and experience to perform the duties expected from them. Ethically, the practitioner will have to constantly be knowledgeable of laws which have changed (amendments) in order to give effect to those laws, and practice skills with other practitioners and establish best practice. Similarly, if the professional is aware of any unethical practices they are obligated to report the malpractice to the various organisations involved, and always be available for consultation with other colleagues. There are many ethical obligations of a practitioner, which need to be maintained and adhered to, which one may not be aware of without relevant training and credentials. If persons are employed to fulfill these duties and are not aware of these obligations, can a practitioner be held accountable? Other obligations are to protect the confidentiality of all records subject to law and only make disclosures of information with the written consent of the client. There is a responsibility of the practitioner to report any documented or suspected child abuse or neglect, abuse of patients or any other persons to federal agencies as defined by both local and national laws.

Within South Africa there is no board of ethics for FSW's due to the lack of formalisation of this profession. Therefore, most of the practitioners are bound by the ethics of the South African Council for Social Service Professions (www.sacssp.co.za/website/, viewed at 22 July 2014). Therefore, the ethics and law governing this profession (various legislation and court processes) allows for a structure to be created in which practice is confined.

2.5 COMPETENCY ASSESSMENT

According to Cheung (2003) the truth and lie testing has three functions namely transitioning between rapport building to a free narrative reporting stage. Secondly, assessing the child's ability to distinguish between a truth and lie (fact and fantasy) and thirdly, to provide a platform for the interviewer to establish the importance of telling what really happened and not making anything up. The three steps are therefore:

- Ask questions to further develop rapport and answering Who, Where, When, What and How questions
 - Assess child's ability to differentiate between truth and lie
 - Explaining ground rules of only telling the truth and accepting 'I don't know' or 'I don't understand' responses
- (Cheung, 2003: 46)

Assessment forms a very important part of determining a child's level of competency to stand trial. There are various types of assessment tools utilised all over the world, and to fit the context of South Africa, the researcher utilised the SAPS FSW Procedure Manual (2013). The researcher acknowledges that the SAPS FSW Procedure Manual (2013) is not the only structure available for example, in Cape Town, forensic social workers in private practice and/or private organisations conduct competency assessments to assist the courts. Due to the only available resource to the researcher at the time, the researcher utilized the SAPS FSW Procedure Manual (2013). This manual uses various assessment tools aimed at various objectives for specific developmental levels which is very useful, as one is not able to question the ability of witnesses' competence with generic assessments due to the different development levels of the child. These assessments are categorised, explaining what age group it applies to and what the aim of the assessment is. As some of these assessments are utilised for children of all ages, this research is specifically interested in what assessment tools are used for children aged five to ten year old. From the SAPS FSW Procedure Manual (2013), the assessment tools which are applicable to this age group include: selective anatomical detailed drawings, body parts, cognitive interview, ideal house, castle, fam-a-gram, graphical images or mapping, anatomical detailed dolls, problem-outcome profile and feelings charts and feelings card, sentence techniques, client journals and conceptual frameworks.

The role of the practitioner in competency assessment is to determine whether the child is able to distinguish between a truth and a lie, which is vital in allowing the child to be a witness at trial; the child's ability to communicate, ability to remember and the appreciation of taking an oath. According to Cronch, Hansen and Viljoen (2006), truth and lie questioning is more effective to understand if children know the difference between the two so that they can identify moral consequences of lying. According to Anderson et al. (2010), children around the age of five mostly start to develop a basic understanding of telling the truth and the moral consequences of lying.

There are a few assessment tools widely used in forensic interviews such as the Touch Survey and the use of Anatomical Dolls. According to Cronch et al. (2006), the Touch Survey expresses touch as a continuum which ranges from good to neutral to bad touches. The Touch Survey itself includes a discussion of various touches the child has experienced (i.e. hugging, kissing, hitting, sexual touches) feelings associated with the touches, locations on their body where they have received the touches and who gave them the touches." (Cronch et al., 2006:

200) This is useful for children over three years old, and may be useful in conjunction with other assessment tools. One may use it to assess the child's attention span and build rapport while understanding the child's self-representational skills.

Anatomical Dolls too are commonly used in practice in assessments regarding child sexual abuse, however pose various levels of risk on the credibility of the child. When utilising this assessment tool, the practitioner has to be certain about the type of information they would like to gather from this type of assessment. "Everson and Boat (1994) argued that wholesale condemnation of anatomical dolls is unjustified and report that the decision to use anatomical dolls must be based on the relevancy of the specific functional use of the dolls within the context of the evaluation." (Kuehnle, 1998: 10) For low risk usage, it may be used as a comforter or as an ice breaker, even to help children identify body parts, ask questions in general and test their sexual knowledge. This is the safest manner to use the anatomical doll during assessment. If it is used as a demonstrative aid to clarify previous verbal statements, the risk increases due to the risk of interpretive error and child's suggestibility. Anatomical dolls are also used as a stimulus or trigger for children's recall ability, and the practitioners reactions have potential to be leading or contaminating of that information. The highest risk posed in utilising this tool, is when it is used to diagnose the occurrence of sexual abuse due to the child's explicit sexual behaviour with the dolls. Therefore, training on the usage of assessment tools and their credibility is also important for practitioners to adhere to and not left to their own interpretation thereof.

The information gathered from the assessments conducted by the practitioner is compiled in a competency report where the practitioner will state under what conditions the child would be best equipped to fulfil their role at court. In testing for competency, various factors are taken into account, such as the child's age, ability to observe, have adequate memory, the ability to communicate and the appreciation of testifying truthfully. Therefore in practice it is vital that practitioners have an excellent knowledge of theory on sexual abuse, child development, an array of assessment tools, interviewing techniques and report writing skills. There are numerous credible assessment tools which may be used by practitioners to make informed hypothesis and conclusions on the competency of the child, which is formulated and presented in the form of a competency report.

2.6 COMPETENCY REPORT

The competency report therefore informs the court whether the child is able to recall events, communicate effectively, appreciates and understands the importance of taking an oath and knows the difference between a truth and a lie, with a possible recommendation for the use of an intermediary. FSW's need to show evidence that their mandate speaks directly to what is legislated and informs their practice. According to the SAPS FSW Procedure Manual (2013), there is a basic framework for a competency report.

This includes:

1. INTRODUCTION:

- Referral: who referred the client to the practitioner
- Process followed: how many interviews were conducted with the client, the dates of these sessions and the duration thereof. Who accompanied the child and what was administered during these sessions
- Motivation for using specific work protocol: give reasons as to how the practitioner decided that certain assessment tools were appropriate to gather specific information

2. IDENTIFYING PARTICULARS: the child's name, address, contact details, school address, next of kin, emergency contact details, and the practitioner's identifying particulars such as registration number, contact details, name of organisation and credentials of the practitioner

3. MANDATE FOR THE ASSESSMENT:

- Referral Agent: Who referred the client to the practitioner
- Specific required information as indicated by the mandate/referral agent: what is the purpose of the child coming to see the practitioner and the type of information needed from this referral

4. CLINICAL IMPRESSION OF (NAME OF CHILD): the practitioner's evaluation of the child in terms of appearance and hygiene, any inferences to the functioning of the child and home life

5. ASPECTS THAT IMPACTS ON THE CHILD TO ACT AS A CREDIBLE WITNESS:

- 5.1 Cognitive development: the child's ability to match developmental milestones, whether it is appropriate and on par with the average child of this age including schooling achievements
- 5.2 Emotional development: the child's maturity level, emotional development in terms of developmental expectations of the average child of this age
- 5.3 Experienced trauma: various types of trauma experienced during their lifespan
- 5.4 Interpersonal relationships and the impact there of on child's ability to act as a witness in the court proceedings: relationships with their family, peers, teachers, the perpetrator and other relevant persons in the child's life, whether these would impact their ability to testify in court
- 5.5 The requirements in the Criminal Act of a witness and the cautionary rule' with regards to children
 - Distinguishing between the concepts of truth and lie: the outcome of assessments conducted regarding truth and lie, and moral reasoning
 - The inconsistency of information disclosed, narrative ability, memory recall ext.: whether the child's story has been consistent of a child who has been a victim of sexual abuse, their ability to communicate effectively and recall necessary information
 - 5.6 Aspects that the court must take cognisance of when evaluating the child's testimony: any other important information the practitioner feels the court should be aware of when and take into consideration when hearing the child's testimony
6. EVALUATION: An overall evaluation of the client after having undergone the processes, utilising theory to support the practitioners evaluation
7. RECOMMENDATION: the recommendation of the practitioner based on the whole report as to whether the child is competent to stand trial, and whether the child should be granted the usage of an intermediary worker or not. Similarly the practitioner may recommend court preparation for the child in order to prepare them for the difference between the 'interviewer's' room and the court or where trial would be taking place.

The competency report is taken into consideration by the court and determines whether the child is competent to stand trial or not, and if it is in the best interests of the child to do so. It is therefore an instrument in the judicial process for justice to be achieved; it is a legal document and should be as comprehensive as possible. This may be communicated to the rest of the

multidisciplinary team as the ability of the attorney to interact and communicate with a child will directly influence the credibility of the witness. Therefore it is evident that there are linkages which are very important in this multi-disciplinary team, and if it is fragmented, the credibility of the witness may be affected and may influence the outcome of the cases tremendously. It is vital for the multi-disciplinary team to be aware of the rationale and significance of competency reports within the judicial system and not undermine the purpose of this document.

2.7 FURTHER SERVICES: MULTI-DISCIPLINARY TEAM

Disclosure of sexual abuse may occur with any member of the multi-disciplinary team, and if this occurs (of which disclosure occurs due to numerous factors), the professional needs to know what their role is. Often attrition occurs due to many of the role players either not fulfilling their duties or victims retracting their statements. According to Vetten et al. (2008), once a case is opened the victim will then make a formal statement of the disclosure and complete a medico-legal examination which is where the victim may disclose what abuse he/she has endured. The police investigation then proceeds where either a suspect is arrested and charged or no arrest is made, which results in the case being closed as undetected, and the docket being filed. However, if the suspect is arrested and charged this could be followed by a bail application, which is either granted or denied. Pre-trial procedures (further investigation) then take place and the trial may begin if there is enough evidence or the case is withdrawn or struck from the roll. If at trial the accused is convicted of the offence, the accused will be sentenced, or at trial the accused may be acquitted. In a South African study conducted by Mengel (2008), it was found that of six hundred and thirty cases of sexual abuse reported; only one hundred and sixteen cases were confirmed. To engage in this process one cannot be certain that it would reach a stage where the accused is sentenced.

According to Mnisi (2010), assumptions of child testimony should be challenged such as children's memories are unreliable, children are egocentric, children are highly suggestible, children have difficulty distinguishing fact from fantasy, children make false allegations, particularly of sexual assault and children do not understand the duty of telling the truth. In the judicial system, the child's ability to testify is questioned immediately once the child has reported an incident of sexual abuse. This therefore shows the need for specialised knowledge and skills in this work. Similarly, prosecutors and magistrates need to adhere to legislation and

may be held accountable for not implementing these or partially implementing their obligations.

2.7.1 Prosecutors

Prosecutors outweigh the benefits and/or damages which may occur if prosecution occurs to children, namely psychological damage or secondary trauma. Cross, De Vos and Whitcomb (1994) explored the reasons which motivate prosecutors to prosecute cases of child sexual abuse or not. It appeared from cases that children between seven and seventeen years old were more accepted for prosecution. “In summary, in the single predictor analyses, acceptance for prosecution was significantly related to age of the child, the relationship between the perpetrator and child, severity of the crime, the availability of several different forms of evidence, and how the case was disclosed and investigated.” (Cross et al., 1994: 673) There are a number of interacting factors affecting the accuracy of the child's testimony, namely the accusatorial system, the elements of confrontation and cross-examination, the presence of the accused; the short attention span of children, the formal judicial system, cultural and language differences between children and court staff, problems relating to the use of interpreters, inappropriate representation of children and the setting in which evidence is given. All these factors need to be considered and addressed in the competency report to ensure that the court is informed about how best to suit the needs of the child, and their best interests.

2.7.2 Police

Police should have more than one interview with the child victim when gathering their statements. This will benefit both the child and the police to build rapport with the victim, a trusting relationship, and gather a strong statement of the alleged abuse. Leander (2010) explored initial statements made by victims to the police when they first came to the police station. During the first interview, children avoided answering questions, denied the occurrence of abuse despite of evidence which existed. In consequent interviews the children disclosed more information than in the first interview. To conduct more than one session with the child to make a statement may be more helpful to the court as often these are poor statements from the victim even if there is hard evidence that the abuse occurred.

2.7.3 Medical Practitioner

The medical practitioner too plays a vital role in collecting data, which is used to convict perpetrators for crimes committed. The role of the medical examination is to check for injuries,

injections, collect samples of fluids if sexual abuse occurred recently, check the mental health of child and parents and refer to necessary services. The numbers of cases which are reported and referred to court, combined with positive prosecutions are few, and are mostly due to poor evidence collection. “The District Surgeon system in South Africa is currently being abolished, and it is intended that all clinical forensic procedures will be available at all public health services providers including primary health care clinics.” (Martin, 2002: 106) This, therefore, allows any medical practitioner the competency to perform the forensic medical examination to collect forensic evidence of sexual abuse victims. This is c as not all medical practitioners are trained to do this and the procedure requires meticulous procedures to be followed. This information, similar to the statements made by children all form part of corroborating evidence used in court to ensure that justice is served. Therefore it is important that the multi-disciplinary team understands their role and contribution to this process. There is a link of services which need to occur in collaboration with SAPS, which is the provision of crime kits for evidence collection. In South Africa, a testimony made by the child is independent from the initial statement made by the child. This may incur consequences of the removal of the child from the home and/or a report from the practitioner regarding the safety of the child. The professional manner of this process and/or report should be legally sound in order to be effective in what it set out to achieve. The SAPS FSW Procedure Manual (2013) provides guidelines for professionals in this setting.

2.8 CONCLUSION

This chapter has taken a closer look at various literatures written about FSW, various types of legislation and how children may disclose sexual abuse. The process, which is then undertaken post disclosure, such as the forensic interview process, various assessments which can take place and the compilation of the competency report is detailed. Lastly, a holistic framework was provided of how these services come together by means of a multi-disciplinary team and the importance of this team working together. The next chapter focuses on how the research is to be implemented to possibly contribute or shape this existing literature.

CHAPTER 3: METHODOLOGY

3.1 INTRODUCTION

There are various steps one has to follow in order to conduct effective and empirical research. According to De Vos et al. (2011), the research steps include identifying the research design most appropriate in determining answers to the research questions, the choice of sample design, data collection method, data collection tool and the data analysis method. It is important to be aware of the limitations in the study in order to counteract them. This chapter demonstrates the research process taken by the researcher to conduct effective and empirical research.

3.2 RESEARCH DESIGN

According to De Vos et al. (2011) and Babbie and Mouton (2002), there are two broad types of paradigms or research designs, which one could use in conducting research, namely quantitative or qualitative research. The research undertaken forms part of an emerging field within social work which lacks information and guidelines as to what is expected from FSW's in assessing competence for victims of child sexual abuse. The researcher aims to explore both a broad view of current practices in FSW and subjective and unique experiences from respondents in their work as practitioners. Therefore, in order to accomplish the purpose of the research, a mixed methodology approach was used to best explore the training needs and practices regarding competency assessments and competency reports in FSW. According to Delpont and Fouché (2011) the advantage of utilizing a mixed method approach to research is that the use of quantitative and qualitative designs collaboratively counteracts weaknesses of each methodological design.

To determine the consensus on the competency assessments and competency reports a survey was distributed to the respondents (FSW's in the Gauteng Province, which will be further explained under Sampling). This survey utilised a quantitative paradigm for observable and measurable data to give the researcher the general view on practices regarding competency assessments and competency reports. To gain subjective and unique experiences from the respondents, the researcher used the same sample split into two groups and conducted two focus groups. The rationale for utilizing focus groups was to flesh out information gained from the survey and understand the subjective practices and understandings of these practitioners regarding their role in competency assessments and reports. The researcher then used a grounded theory approach to her research, which, according to Corbin and Strauss (2008), is

based more on observation than deduction. The researcher developed a framework from what stems from the respondents in a natural manner pertaining to the phenomenon, and was verified through systematic data collection.

3.3 SAMPLING

The sample of respondents utilized in this study was a purposive sample. “This type of sample is based entirely on the judgement of the researcher, in that a sample is composed of elements that contain the most characteristic, representative or typical attributes of the population that serve the purpose of the study best.” (De Vos et al., 2011: 232) Prior to conducting the study, the researcher requested a name list from persons employed as FSW’s within the Province, which was used to purposefully select respondents for the study. The criteria for participation in the research were to seek persons employed as FSW’s in the Gauteng Province and have administered competency assessments and written competency reports. The name list received consisted of twenty-eight FSW’s from the afore-mentioned request and was a good representation of practitioners in the province and would have the necessary credibility to partake in the research. The researcher sought permission from the Research Ethical Committee at UCT to conduct the research with this sample and was successful in gaining permission.

3.4 DATA COLLECTION

In any research it is important for the data collection method to be carefully considered in order to ensure maximum results from the surveys and focus groups. In light of the ethical considerations, an appropriate method of data collection has been explored and as a mixed methodology is undertaken in this research, two processes of data collection was administered. The data collection method for the quantitative paradigm was the survey and for the qualitative paradigm, focus groups were conducted.

According to Babbie and Mouton (2002), a survey is a method of gathering information from a sample in order to generalise to a wider population. The researcher is aware that the sample is not of a big size where one is able to generalise to all practitioners in the field. However, the sample size is big enough to gain insight into the practices within the Gauteng Province and the various practices they undertake on a daily basis. The survey was of an explanatory nature, and was administered in the presence of the researcher as a collective group after having received informed and written consent from the respondents (see Appendix A). According to De Vos et al. (2011), this type of questionnaire is called a group-administered survey (see

Appendix C) where the respondents are in a group after the researcher has given information on the survey and is then able to respond to these individually. There are advantages and disadvantages to this type of data collection. The advantages of this approach is that each individual completes his or her own survey, it is time effective and cost efficient as all members are present at the same time. Similarly, the researcher is there for clarity purposes and many persons may be addressed simultaneously. The disadvantages were reduced as the researcher was able to have all the respondents available at the same time and a venue which was of great benefit to collect the data.

The second process consisted of conducting two focus groups where the respondents were randomly divided into two equal groups. The researcher utilized the main research questions as questions to be explored and discussed in the focus groups (see Appendix D). A purposive discussion was therefore administered to explore a specific topic with persons of a similar background and interest. In this research the common backgrounds and interests were that the respondents are FSW's by profession and work directly in the assessment and report writing processes for child victims of sexual abuse, between five and ten years old. These focus groups were beneficial in examining different perspectives professionals have on the use of competency assessments and competency reports and the effectiveness thereof.

Within the focus group, the use of a dictaphone was required and permission was sought from the respondents while contracting. The dictaphone was easy to administer and was the most efficient way of capturing data including the use of a flipchart to jot down key points that were raised during the discussion. The advantages were that it was cost effective to administer compared to running individual interviews. The setting allowed for probing and flexibility and was a way of validating their work ethic, which provided results to concerns they had in the field. The disadvantage was that initially the presence of the dictaphone could have taken away from the initial spontaneity of the focus group although the respondents soon forgot about its presence. The response rate was one hundred percent for both the survey and focus group.

3.5 DATA ANALYSIS

Due to the two methods of data collection, there too was a difference in the data analysis processes followed. The researcher gathered data, and in order to present the findings, had to organize and make sense of the data.

The quantitative data was analysed both manually and by use of a computer and calculator to work out percentages. All the quantitative data is presented by means of tables and graphs where applicable and by means of descriptive analysis of the data. The surveys data analysis consists of basic quantitative analysis: descriptive statistics. According to De Vos et al (2011), descriptive analysis aims to describe the distribution of the sample numerically and will include data by means of tables and graphs, and measures of averages, and the mode (most frequent observation) and dispersion of total ranges.

The qualitative data from the focus groups was transcribed by the researcher and printed out in order to analyse the raw data utilizing the adaptation of Corbin and Strauss (2008). There are three phases, namely data ordering phase, data analysis phase and literature comparison phase. The researcher read through each transcription thoroughly to understand the meaning of what was being said and consulted the field notes recorded. Once the researcher felt she had a good understanding of these events, the researcher used open coding for themes and categories deriving from the data as stated by Myrick and Walker (2006). Through various cross-checking between transcriptions and field notes, the researcher was able to sift through the themes and categories to ensure all meanings were found and understood until the point of saturation, these processes were followed for both sets of transcriptions. After the themes and categories were developed, the researcher viewed it in light of the current theory until the point of theoretical saturation. These were then compared and contrasted with the existing literature and practices to be able to present as findings which either concur with existing literature, or highlights practices which are not commonly used elsewhere or documented.

3.6 DATA VERIFICATION

According to Guba (1990), data verification is used to ensure that the value of information shared by respondents is trustworthy, reliable and creditable. Cresswell (2009) illustrates the importance of accounting for the validity and reliability in presenting research that is consistent in its responses. In this study, one was able to check for this by comparing the responses of the two focus groups as they were administered independently and the responses were consistent in comparison regarding the responses elicited from the respondents. Techniques such as triangulation of data were used to check the accuracy of the findings, member checking and clarifying researcher bias.

3.7 TRUSTWORTHINESS

Cresswell (2009) emphasises the importance of trustworthiness in empirical research and for the researcher to portray this within their work. One way in which this was ensured, is that the respondents were randomly split into two to administer the focus groups and this lessened the possible biases and conformity amongst respondents. Secondly, the survey elicited general information regarding competency assessments and competency reports, and the focus group shed light on the findings which were produced from the survey. Lastly, the researcher had a minimal understanding of FSW entering this research and could only work on this phenomenon once exploring the respondent's responses within the survey and focus group, thus entering the research without preconceived ideas.

3.8 LIMITATIONS

- The sample size in the study is small in nature and may not be generalized to the practices within the Gauteng Province as a whole. It does however present the various geographical areas of forensic social workers within the Gauteng Province. The researcher acknowledges that this therefore only provides a glimpse of the practices in the province and may not be a true reflection of the extent of challenges faced by these respondents but alludes persons to where knowledge and skill is needed.
- Data Collection Approach: the research questions were a point of discussion within the focus groups and were helpful to explore within them. The questions were not rigid or confined to one narrow topic but were broad and flexible and allowed for valuable information to be gathered from the respondents. Similarly, the surveys tested their general understanding of competency assessment and were not as in-depth regarding their reasoning for utilizing various techniques.
- Regardless of the limitations mentioned above, this research contributes to knowledge around FSW in South Africa which is emerging and is needed to help practitioner's better assist persons in this context. The researcher is of the opinion that this research may assist in establishing protocols and mandates for FSW especially as it is in the process of formalization in the country.

3.9 CONCLUSION

This chapter has introduced the methodology of the research, which demonstrates step by step how the researcher has undertaken her research. The research design is a mixed methodology explorative study, with a sampling size of twenty-eight respondents, which was a purposive sample. In collecting the data, two forms of data collection was used, namely surveys and focus groups, together with analysing the data using descriptive analysis and an adaptation of Corbin and Strauss (2008) respectively, which is also a means of data verification and assessing the trustworthiness of the research. Lastly, the researcher has described the limitations of her study and how she has overcome them. The following chapter will present the research findings.

CHAPTER 4: DISCUSSION AND FINDINGS

4.1 INTRODUCTION

The aim of the study was to explore the role of competency assessments in forensic interviewing for child victims of sex offences between five and ten years old. This is important because the prevalence of sexual abuse amongst child victims are largely within this age cohort and the voice of the victim in criminal proceedings to prosecute perpetrators are often not strong enough to be brought as evidence before court. During this study, the researcher surveyed and conducted two focus groups with twenty-eight respondents (n=28) from the Gauteng Province. The respondents were divided into two groups for the focus group (Group 1; n=14 and Group 2; n=14) in order to manage the amount of data collected and have minimal influences within the group. As two types of data collection were used, namely surveys and focus groups, the research findings will be presented separately. The survey utilizes a quantitative paradigm and will therefore be demonstrated by using graphs and descriptive data. The focus group responses were analysed qualitatively using Corbin and Strauss (2008) method of data analysis and will be presented using direct quotations from the respondents. This chapter therefore presents a profile of the respondents, and a framework of analysis used to determine the findings of the research under each question.

4.2 QUANTITATIVE RESEARCH RESULTS GENERATED FROM THE QUESTIONNAIRES

4.2.1 Demographic data of the respondents

Table 1: Demographic data of the respondents

RESPONDENT	GENDER	AGE	RACE	EDUCATION
Respondent 1	Female	28	African	Bachelor of Social Work
Respondent 2	Female	39	African	Honours in Criminology
Respondent 3	Male	39	African	Bachelor of Social Work

Respondent 4	Female	41	African	Masters in Clinical Social Work
Respondent 5	Female	37	African	Bachelor of Social Work
Respondent 6	Female	29	African	Honours in Social Work
Respondent 7	Female	28	Indian	Masters in Social Work
Respondent 8	Male	54	White	Bachelor of Social Work
Respondent 9	Male	27	Swati	Bachelor of Social Work
Respondent 10	Female	25	African	Bachelor of Social Work
Respondent 11	Female	38	African	Bachelor of Social Work
Respondent 12	Female	31	African	Bachelor of Social Work
Respondent 13	Female	31	African	Bachelor of Social Work
Respondent 14	Male	25	African	Bachelor of Social Work
Respondent 15	Female	37	White	Bachelor of Social Work
Respondent 16	Female	28	African	Bachelor of Social Work
Respondent 17	Female	45	White	Masters in Social Work
Respondent 18	Female	37	African	Masters in Forensic Social Work

Respondent 19	Male	30	African	Bachelor of Social Work
Respondent 20	Male	28	African	Bachelor of Social Work
Respondent 21	Female	27	African	Honours in Social Work
Respondent 22	Male	29	African	Honours in Social Work
Respondent 23	Female	29	White	Bachelor of Social Work
Respondent 24	Male	28	African	Bachelor of Social Work
Respondent 25	Female	31	African	Bachelor of Social Work
Respondent 26	Female	54	African	Honours in Social Work
Respondent 27	Female	27	African	Honours in Social Work
Respondent 28	Unknown	Unknown	Unknown	Unknown

From the above table, out of the 28 respondents, most of the respondents attained a BSW degree at the time of the study.

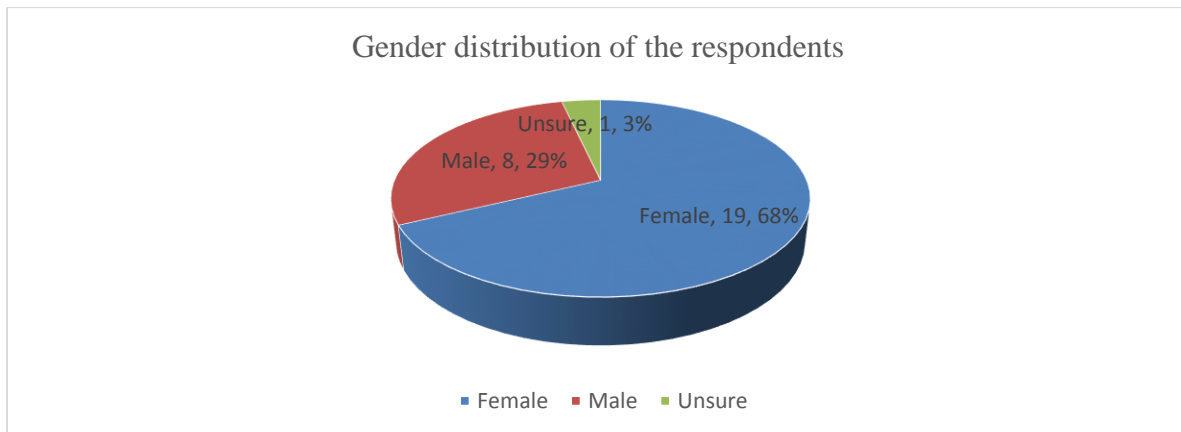
Most respondents were African females, between the ages of 26-30 years old. It would seem that FSW in Gauteng are female dominated and that interest in this growing field of FSW is captivating young professionals.

In the next section, Demographic data is disaggregated in order to uncover patterns, trends and other important information from the data collected. The following results were captured:

Table 2: Gender distribution of the respondents

Gender	Frequency	Percentage
Female	19	67.9%
Male	8	28.6%
Unsure	1	3.5%
N	28	100

Figure 1: Gender distribution of the respondents



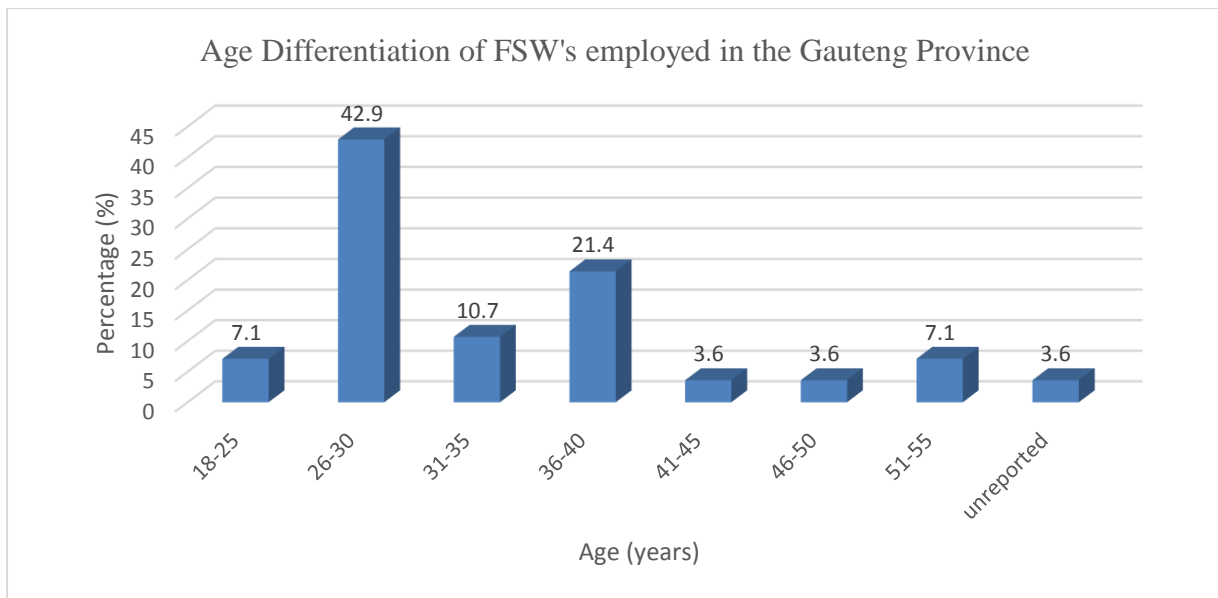
This research study found that of the 28 FSW's in the Gauteng Province surveyed, 67.9% of the respondents were female and only 28.6% were male; with one respondent not completing this question.

From the above Table and Figure, it becomes evident that FSW employees are tending to be females within the Gauteng Province. The following table demonstrates the age distribution of the respondents in the study.

Table 3: Age differentiation of FSW's in Gauteng Province

Age	Frequency	Percentage
18-25	2	7.1%
26-30	12	42.9%
31-35	3	10.7%
36-40	6	21.4%
41-45	1	3.6%
46-50	1	3.6%
51-55	2	7.1%
Unreported	1	3.6%
N	28	100%

Figure 2: Age Differentiation of FSW's employed in the Gauteng Province



The afore-mentioned data informs the researcher that 42.9% of the respondents are aged between 26 and 30 year old persons. This is followed by 21.4% of the respondents being aged 36 – 40 years old at the time of research. Most of the respondents therefore fall within this age

group, with 10.7% aged 31 – 35, 7.1% each for ages 18 – 25 and 51 – 55, lastly 3.6% each for ages 41 -45; 46 – 50 years old and one unreported respondent. The researcher is of the opinion

that these are fairly young FSW's in age and it is important to determine the number of years' experience the respondents have in FSW regarding working with child victims of sexual abuse.

Table 4: Years of experience working with child victims of sexual abuse

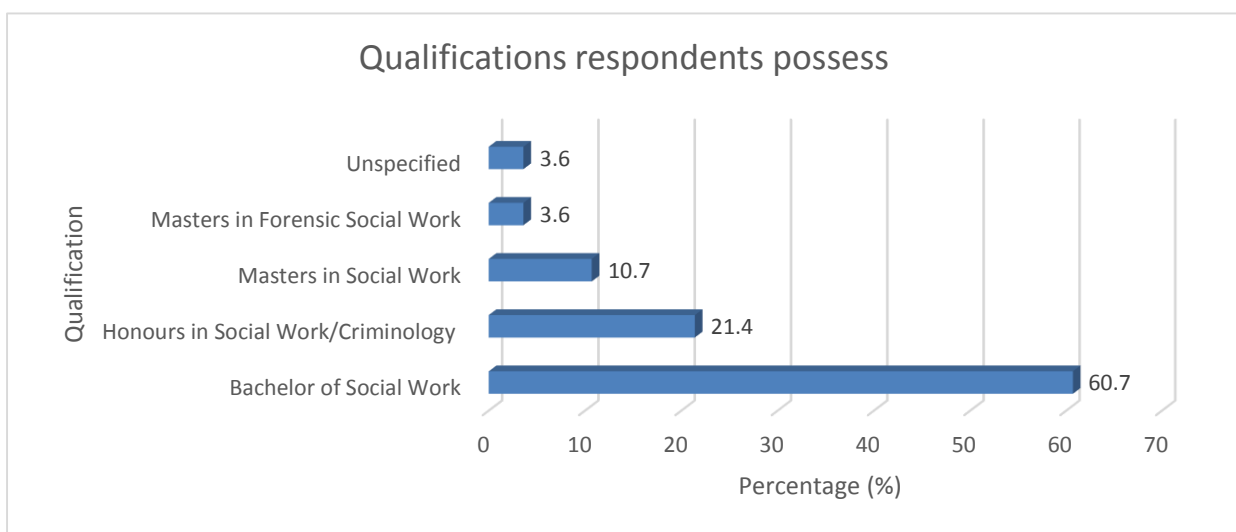
Years	Frequency	Percentage
0-12	2	7.1%
1-5	19	67.9%
6-10	4	14.3%
11-15	1	3.6%
16-20	0	0%
>20	2	7.1%
N	28	100%

Figure 3: Years of experience working with child victims of sexual abuse



From the above Table and Figure, it becomes clear that most of the FSW's (67.9%) have one to five years of experience in working with child victims of sexual abuse. This is followed by 14.3% of respondents having 6 – 10 years of experience and a congruent amount of 7.1% of the respondents having less than twelve months experience and over twenty years of experience. Only 3.6% of the respondents had 11 – 15 years' experience in FSW. One may deduce from this that the respondents constituted of persons who are relatively new in the field of FSW and experience in working with children, with only slightly over 10% of the respondents having more than ten years' experience in the field.

Figure 4: What qualifications do the respondents possess?



Of the respondents all of them possess a Bachelor of Social Work degree from various tertiary institutions. Most of the respondents only possess a Bachelor of Social Work degree (60.7%) and has numerous years of experience in the field, with 21.4% possessing a Honours Degree in Social Work or Criminology. There is only 10.7% of the respondents with a Master's degree in Social Work and even fewer (3.6%) who possesses a Masters in FSW. Of the twenty eight respondents, 3.6% of the respondents did not indicate their qualifications.

All of the respondents comply with the first requirement by Green, Traupmann and Thorpe (2005), in stating that FSW is a specialism of Social Work, of which all respondents possess a Bachelor of Social Work. It follows that the respondents vary in credentials and experiences and thus will differ in their practice techniques and effectiveness in fulfilling their roles. However, in order to fulfil their duties as a forensic social worker, there is a special skill set

needed which requires further studies in practice, with a special clientele which requires special knowledge. Only 14.3% of the respondents possess a Master's degree, however, it is possible that the respondents have the skills needed to do this work due to experience but may need to study FSW formally to truly understand what drives this field.

The following section of quantitative findings, Perceptions of FSW, follows from responses to section B in the survey.

4.2.2 Perceptions of FSW

The researcher asked a series of open ended questions in the survey. The researcher will present significant findings of these open-ended questions by providing the question and three answers of the respondents to highlight responses found to be significant throughout presenting the quantitative data.

- In your opinion, FSW is...

“Assessment of victim of sexual offences to gather information in order to compile a professional report to court about the victim.” (Respondent 2)

The following respondent provided a broader definition of FSW.

“It is a field of social work that related to legal issues: assessment of rape victims, diversion of youths and adults in conflict with the law etc.” (Respondent 22)

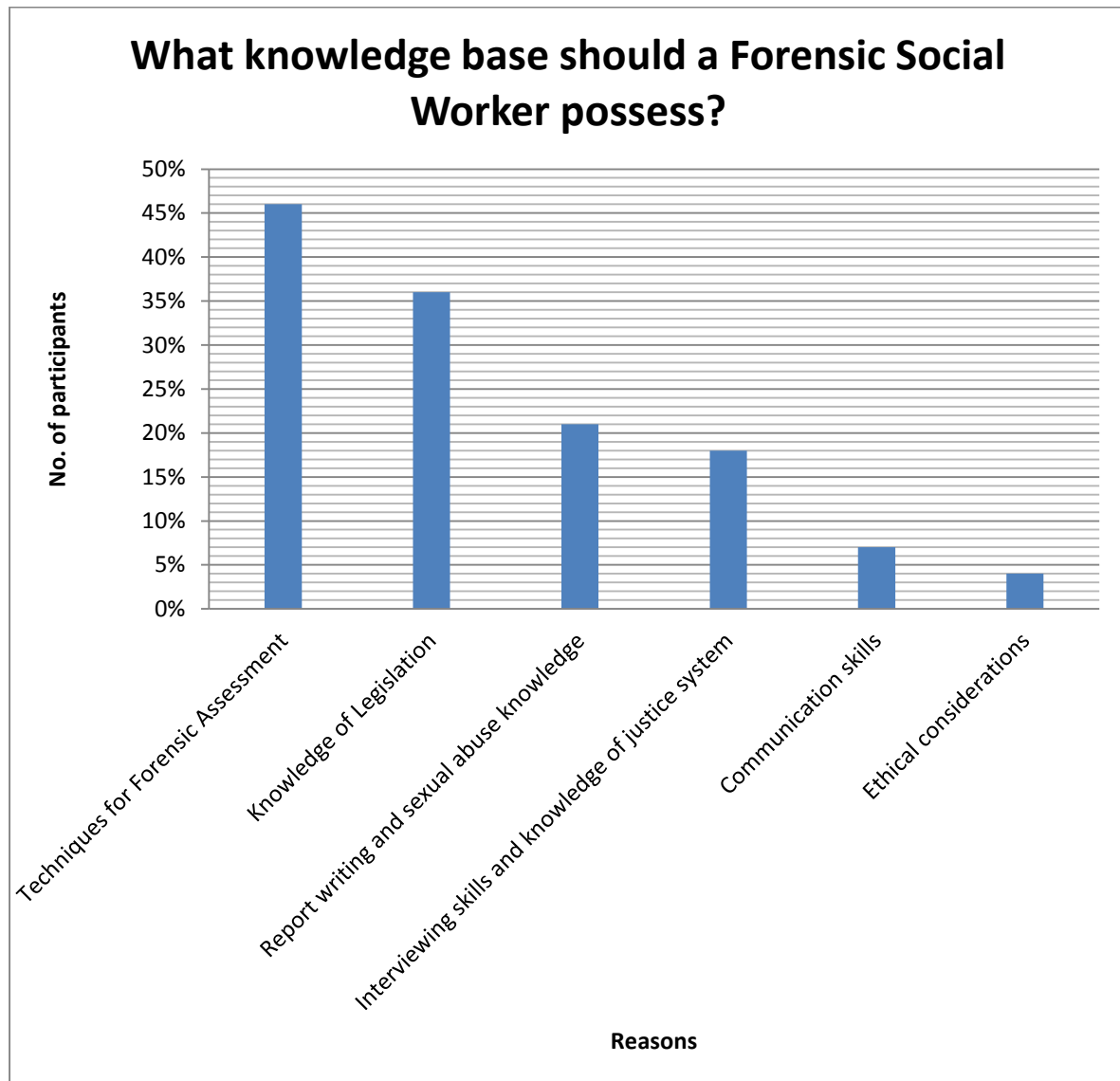
The following respondent echoes the afore-mentioned, however acknowledges that FSW is a specialized field of Social Work.

“Specialized training of social work, mainly focusing on thorough assessment, evaluation and professional opinion on all victims/perpetrators of sexual crimes in order to give professional evidence and testimony” (Respondent 28)

It appears from the definition provided by the above respondents focuses mainly on the practical application of the field. A more holistic and theoretical definition of FSW is presented by Green, Traupmann and Thorpe (2005), “practice speciality in social work that focuses on the law and educating law professionals about social welfare issues and social workers about the legal aspects of their objectives.” It may appear that many of the respondents lack

theoretical knowledge of the field and reflects findings presented in Figure 4 regarding the levels of qualifications amongst the respondents.

Figure 5: What knowledge base should a Forensic Social Worker possess?



The results in the diagram reflect responses from all respondents in terms of what relevant themes were evident amongst them and the frequency thereof. This field appears to be very intricate and requires various knowledge bases in order to fulfill the role of a forensic social worker and be effective in their practice. The various knowledge required as indicated by the respondents in figure 5 consists of knowledge on techniques for t forty-six percent (n=13), thirty-six percent (n=10) legislation, twenty-one percent (n=6) report writing and knowledge on abuse, eighteen percent (n=5) interviewing skills and knowledge of the justice system, with seven percent (n=2) for communication skills and four percent (n=1) for ethical considerations.

The afore-mentioned are important aspects of what knowledge is required from the forensic social worker to give effect to their roles and responsibilities. In order to fulfil their roles, the type of knowledge required consists of all those areas in order to conduct forensic interviews, implement legislation, write reports, and conduct interviews which are ethically sound, as illustrated by Barker and Branson (2000). This finding is further supported by Green, Traupmann and Thorpe (2005) and Jonkers (2012) who state that even without the proper qualification the person receives ‘on the job’ training. As the respondents are not all qualified to be doing FSW, there are various factors which influence their service delivery. Due to this discrepancy; to understand the practical dilemmas faced within this province one needs to determine this cohort’s specific knowledge base regarding various aspects of training needs.

The following section of quantitative findings, Competency Reports, follows from responses to section C in the survey.

4.2.3 COMPETENCY REPORTS

The respondents were asked whether they thought competency reports were important in FSW, and 100% of the respondents indicated that competency reports are important. The respondents were asked to provide reasons to support their opinion on the importance of Competency Reports and are represented in figure 5 as common threads amongst those who gave reasons therefore.

Figure 6: Reasons for the importance of Competency Reports

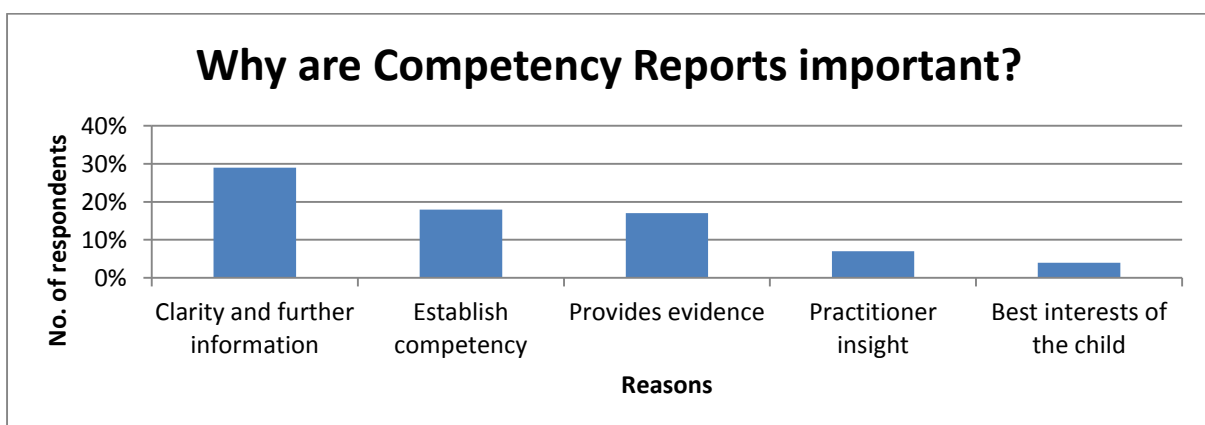


Figure 6 show the various reasons that respondents gave for being of the opinion that competency reports are important in forensic social work. Twenty-nine percent (n=8) of the respondents felt that it provided clarity and further information about the case which is beneficial to the justice system. Eighteen percent (n=5) felt that it was important to establish

competency of their clients as it tested their ability to relating chain of events, their ability to testify and to test whether they know the difference between truth versus lie. Eleven percent (n=3) of the respondents states that it provides evidence, with seven percent (n=2) feeling that it helps the practitioner and court to understand the case and that is marks one as a professional in the field. Four percent (n=1) felt that it was in the best interest of the child to conduct and write the competency reports.

In order to understand the reliability of the child's statements one needs to establish the aforementioned. This therefore concurs with Mnisi (2010) in stating that the function of a competency report which is to determine the reliability of the child's testimony. In order to determine their reliability, various assessments need to be administered to gain clarity and further information of the child's testimony to establish their competency. The procedures for requiring a competency report is legislated in the Criminal Procedure Act 51 of 1977.

- In your opinion, what are gaps in the Competency Report that you have identified during your experience of compiling a Competency Report?

"Is that children are expected to say exactly what is in the report by the defense lawyers and the reports are written soon after the incident and the child testifies after five years which the defense lawyers usually says the child's feelings have changed hence the report is outdated" (Respondent 6)

The following respondent describes a different gap experienced in FSW.

"Having to put recommendations that often the court finds contradictive towards the child verbal statement." (Respondent 14)

The following respondent adds to the afore-mentioned.

"Connecting what law requires and what social workers are trained to supply." (Respondent 17)

This finding the researcher found to be significant as it appears that many of the respondents were unclear of the role competency reports, how to give effect to it through assessments, their report writing skills and being able to motivate their recommendations in court or amongst legal practitioners. This finding further demonstrates the importance of having formal training to support the practice expected from the practitioner which concurs with the NOFSW's Code of Ethics Preamble, as stated in Butters and Vaughan-Eden (2011), "ethically, the practitioner

will have to constantly be knowledgeable of laws which have changed (amendments) in order to give effect to those laws, and practice skills with other practitioners and establish best practice”.

- **In your opinion, what is the process to undertake after a child has disclosed sexual abuse to you as a practitioner? (in order of importance)**

The respondents have various roles and responsibilities as forensic social workers in the process of child sexual abuse cases. The process which should be followed by the collaboration of the multi-disciplinary team, including the forensic social workers, was explored. The following steps were identified:

1. Report to police (if the case is not opened yet).
2. Ensure the safety of the child and establish the best interests of the child, which might result in referring to a place of safety.
3. Prepare the child for court (court preparation).
4. Do an assessment to determine the child’s ability to testify and test for Truth vs. Lie.
5. Assess the amount of impact the abuse has had on the child.
6. Inform the parents/guardians of the child.
7. Gather information of the chain of events and help fact-finding.
8. Complete the J88 form.
9. Conduct an assessment.
10. Write the report for court.
11. Refer the victim for further counselling and/or render therapeutic services.

There are various steps which need to be taken before/during court processes that need to be followed, which incorporates various role players, such as SAPS and medical practitioners. The steps identified may be ones which different role-players complete and have been included in this process; however, there is a lack of understanding in the bigger picture in the interplay amongst the multidisciplinary team. Such as demonstrating the process which of how all the disciplines come together in the role they play within this system and the process involved in

child sexual abuse cases. It appears that there were common steps that the forensic social workers felt had to be followed after the disclosure is made of sexual abuse to the practitioner and that there is confusion around procedures which have to be followed and what they are allowed to do. This implies that there is a need for Procedural Acts and a holistic approach in cases of child sexual abuse, where knowledge is shared and a multi-disciplinary team is knowledgeable about their roles and responsibilities, and how they come together to ensure justice. According to the NOFSW as cited in Green, Traupmann and Thorpe (2005), forensic social workers work with both civil and criminal cases. If the victim decides not to lay a formal complaint, it does not mean that they do not receive services and the state may take the case over and lay a charge on the alleged perpetrator.

- **A child has reported or disclosed sexual abuse to you. From experience, what is your initial reaction?**

“Listen carefully to the cc, go through what has been said, explain to the cc what I have to do now to ensure their safety, reassure the cc that they did the right thing. If the cc is below 6 – speak to the parent guardian.” (Respondent 7)

The following respondent differs in their approach to the afore-mentioned situation.

“Medical check-up. To avoid re traumatizing the child with interview and lots of questions the first thing is to do a medical check to confirm the matter and open a case if the perpetrator is known.” (Respondent 21)

The following respondent concurs with the afore-mentioned in utilizing a hands-on approach with beginning an investigation.

“Start investigation, interviewing the parent, the teacher, neighbours, anyone who close to the child, see if the child is in danger if he/she need to be removed.” (Respondent 27)

The respondents’ answers within this questions were similar to the previous question and demonstrates that the most important steps to begin the process is to report the incident to the police. This is followed by ensuring the safety of the child. This finding concurs with the procedure needed to be followed in order to lead to a conviction namely a criminal case needs to be reported as stated by Vetten et al. (2008).

The following question asks the respondents what level of knowledge they thought they had regarding child development and sexual abuse.

Figure 7: Knowledge on Child Development

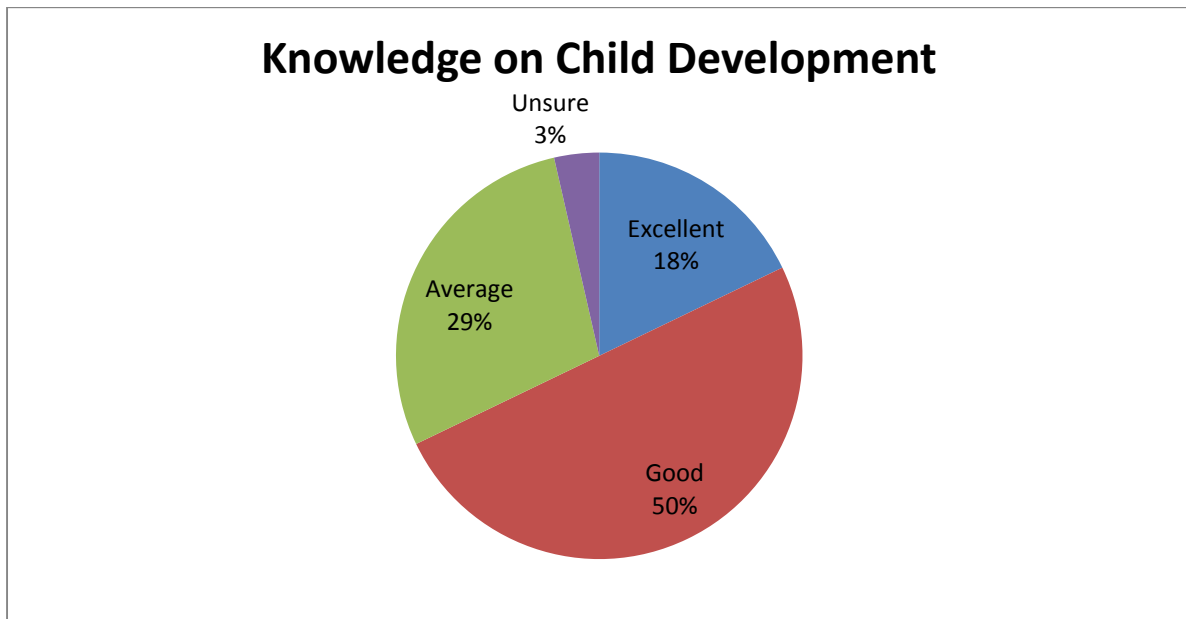


Figure 7 demonstrates that the respondents feel they have a good (50%) amount of knowledge on child development, with some average (29%), excellent (18%) and unsure (3%). In fulfilling the purpose of a competency report to court, knowledge on childhood development is critical. This will form the basis on all work completed with the child being able to understand them effectively and transfer this information to the court. According to Mnisi (2010), knowledge on child development is of utmost importance in order to communicate and interact with children effectively. This finding largely represents that persons working in the field possess a good knowledge base on child development in their opinion. This finding may be viewed in conjunction with Figure 3, which may present the respondents to possess a good level of knowledge on Child Development (above average).

Figure 8: Knowledge on Sexual Abuse

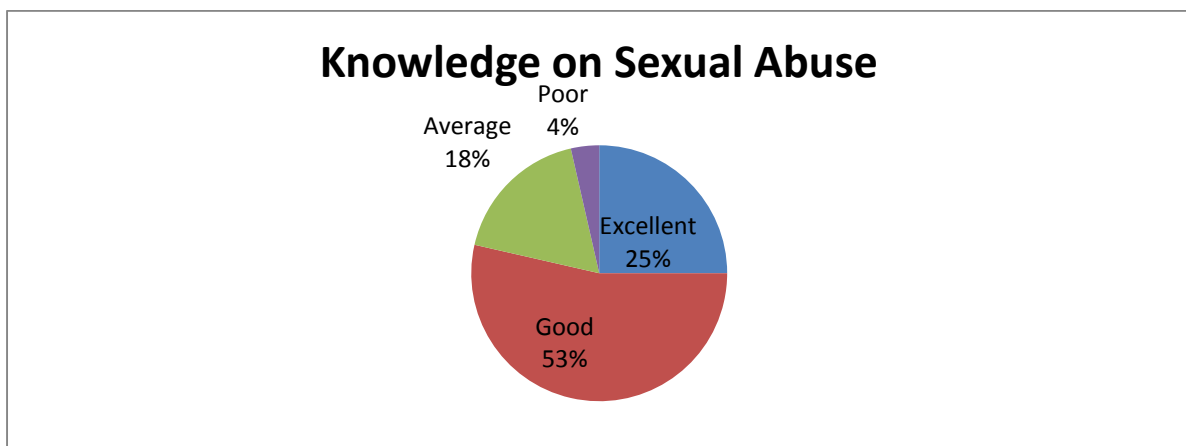


Figure 8 demonstrates that the respondents knowledge on sexual abuse is good (53%), excellent (25%), average (18%) and poor (4%). The level of knowledge on sexual abuse is good; however the requirement should be that all persons working within this setting should have a good or excellent knowledge base on sexual abuse.

Within South Africa there are many contextual factors which may be unique to each victim and one should not generalise this as a practitioner. Vetten et al., (2008) further supports unique circumstances within South Africa which practitioners need to be aware of in cases of child sexual abuse. If the practitioner is unaware of these factors it may have dire consequences on the family structure, how persons are viewed in communities and may lead to further victimisation including internal consequences, such as mental illness. The practitioner has to do what is in the best interests of the child in a holistic manner, not just for the moment but long-term too. Therefore the respondents possess mostly (78%) an above average response to knowledge on sexual abuse (both good and excellent). The researcher explored the knowledge of protocols for forensic interviewing.

Figure 9: Is there a protocol to assess the child’s level of competence?

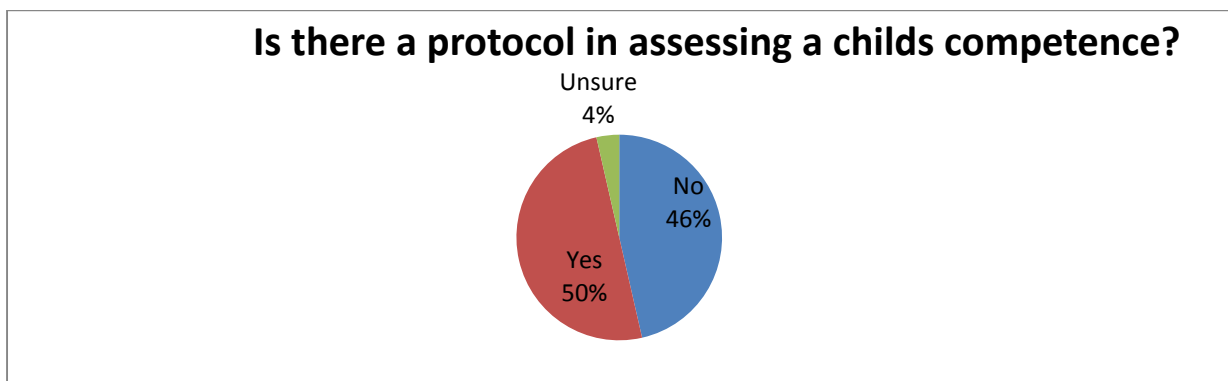


Figure 9 shows that there is confusion amongst the respondents as to whether there is a protocol to be used in assessing a child’s level of competence.

As not all the respondents answered yes to this question, one may assume that not all the respondents utilise a protocol when conducting these interviews. It infers that there are different practices amongst the respondents in interviews and would result in them gathering various types of information, which may not result in what is required of them necessarily. This is concerning as one’s understanding of what information is required may be different and the methods used to ascertain this information may further hamper their evidence as being credible or not in court. This finding may therefore show that practitioners gather different information

from their interviews depending on the type of assessments they use in practice. Regarding the interview process itself and protocol usage, Esplin et al., (2000) explored this and concluded that the type of information gathered from interviews using or not using protocols gathered the same type of information. There were many reasons for this phenomenon although South Africa's context is unique, which may be reason enough for persons to utilise a protocol when interviewing children within this context.

Figure 10: Is there a protocol unique to South Africa's context?

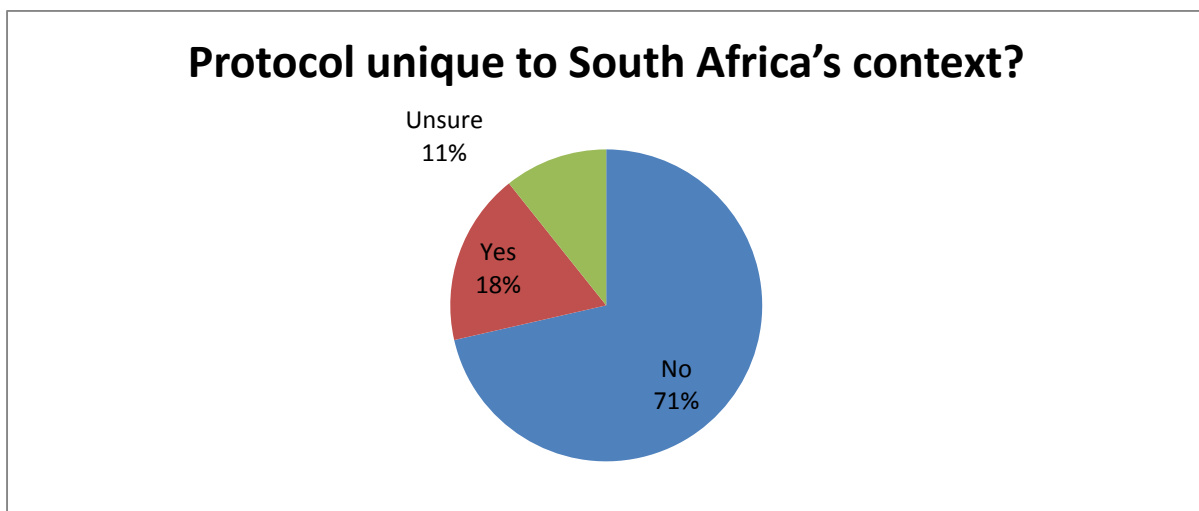


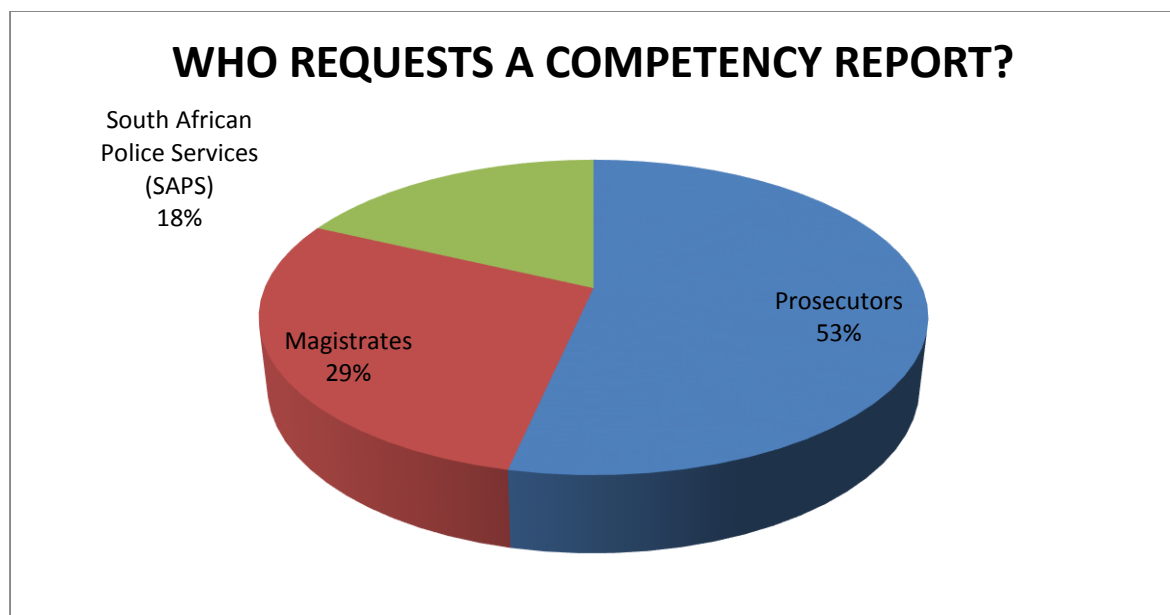
Figure 10 illustrates that 71% of the respondents are not aware of a protocol which may be used which is designed to address the context within South Africa. Only 18% of respondents said there is a protocol that they know of which is unique to South Africa's context, while 11% of the respondents were unsure.

When inquired about a protocol unique to the South African context, the respondents were mostly unaware of or uncertain of its existence. This may mean that they utilise some form of protocol but have borrowed it from practices in other countries. There are two interview protocols utilised within practice in South Africa and have proven to have effective results, which are the Seven-phase Forensic Interview protocol as proposed by Fouché and Joubert (2009) and the Michigan protocol (www.michigan.gov/DHS/0,1607,7-124-5452_7119_25045---,00.html, viewed at 22 July 2014). These protocols provide a structure in which persons may conduct a forensic interview effectively and possibly gain the most information from the victim needed if the practitioner followed the protocol. One is unable to ascertain whether this truly is adaptable to the South African context as much of the content of

these interviews may be through assessments, which may not be adaptable to the South African context.

To determine further practices within the Gauteng Province, other than the knowledge of the practitioner, it is important to view their place within the multidisciplinary team. The following diagrams may shed light on their interaction and understanding of their roles in relation to other practitioners.

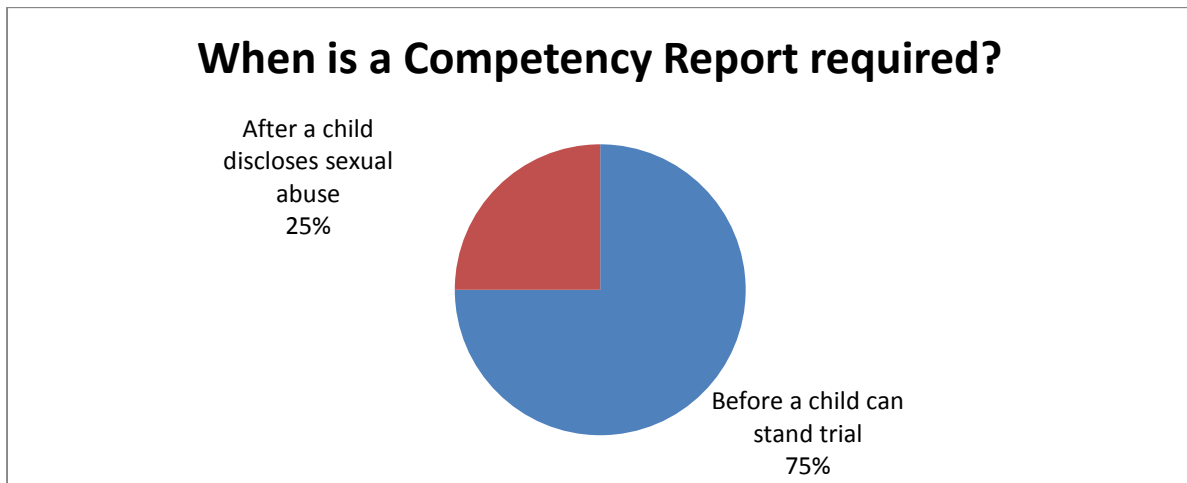
Figure 11: Who requests a Competency Report?



Of the 28 respondents, there were various experiences as to who requests competency reports from the FSW's, as demonstrated in Figure 11. According to the respondents, prosecutors are most likely to request a competency report (53%), followed by magistrates (29%) and SAPS (18%). It therefore appears that this request is not made by one specific professional, although mostly from prosecutors within this province. As there are different role-players who request a competency report from FSW's, one may then ask when these competency reports are requested.

This finding concurs with Jonkers (2012), who has found that FSW's are called upon as expert witnesses to answer questions regarding the competency of the child. The request often comes from the prosecutor for a competency assessment to be administered. The roles and responsibilities of the forensic social worker however are still in the process of being clearly defined especially in relation to other professions.

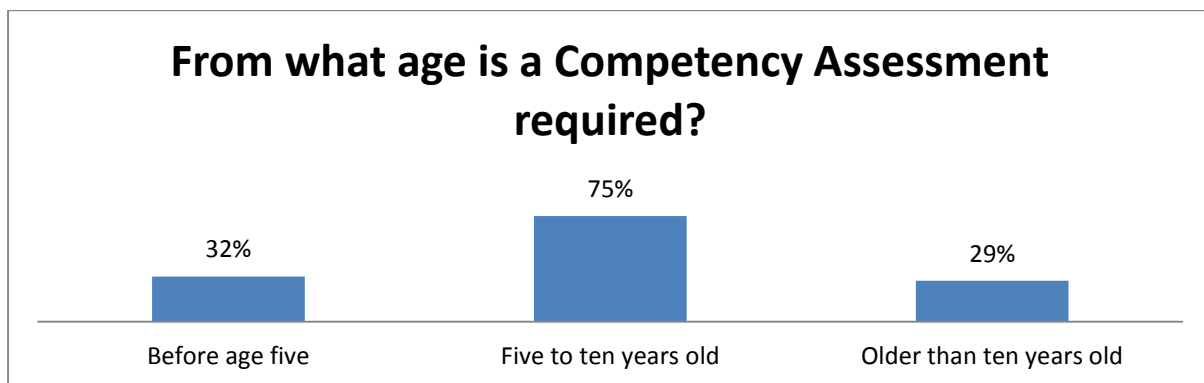
Figure 12: When is a Competency Report requested from the Forensic Social Worker?



The study revealed that the respondents' have different experiences as to when in the judicial process competency reports are required in child sexual abuse cases. Figure 12 illustrates that seventy-five percent (n= 21) of the respondents are asked to produce a competency report before a child can stand trial and twenty-five percent (n= 7) are asked to produce a competency report after a child discloses sexual abuse. This finding validates that prosecutors mainly request competency reports in the Gauteng province as they are needed before the child is able to stand trial. It is therefore important for the child to have the legal practitioners and persons in court to understand the psychosocial functioning of the child who is coming forth as a witness to testify in court. There are various factors which influence at what stage in the process these competency reports are requested and by whom. Similarly, it appears that they have the power to decide whether these requests are made initially.

If a child is to be subjected to testify in a case of sexual abuse, the reliability of a child needs to be determined. It is important to ascertain the age of the children who the competency assessment and report is required for from these professionals. The researcher could not find information on these practical dilemmas within South Africa.

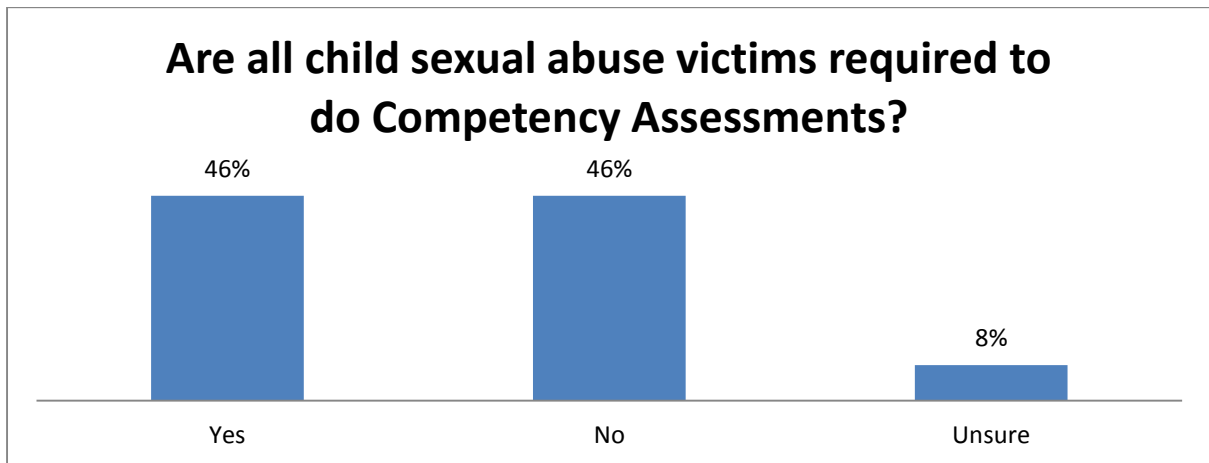
Figure 13: From what age is a Competency Assessment required?



Children aged five to ten years old were indicated as the children who are mostly requested to undergo a competency assessment as depicted in figure 13. It appears that competency assessments are least likely to be requested for children aged younger than five years old (32%) or older than ten years old (29%). This finding therefore alludes to what is happening in practice, where children between the ages of five and ten years old are being exposed to competency assessments. Children younger than five years old may be deemed incompetent, with the exception of a few, based on the lack of cognitive or communication development. However, the cohort of children between ten and eighteen years old may be deemed able to testify in court and deemed competent due to their age. Therefore, one needs to consider, who should undergo competency assessments in cases of child sexual abuse.

According to Cross, De Vos and Whitcomb (1994) children between the ages of seven and seventeen years old were more likely to be accepted by the prosecution to go forth with the trial. However, what happens to children between five and seven years old, if prosecutors are less likely to take on these cases? This once again illustrates the importance of a competency assessment being administered for these children and for age appropriate guidelines for communication with children of this age as illustrated by Anderson et al. (2010). FSW's may be utilized to bridge the gap which exists between legal practitioners and working with children within this age cohort. The Constitution (1996) and the Children's Act (2005) indicate that all children should be protected from harm and is entrenched with children rights and therefore children should not be excluded from certain services due to their age. To explore this, the researcher was interested in finding out which ages of children are subjected to competency assessments.

Figure 14: Are all child sexual abuse victims required to do a Competency Assessment?



This finding represented in figure 14 demonstrates the level of uncertainty regarding whether all children should undergo Competency Assessments and the discrepancy of the findings in Figure 13 in reference to what is happening in practice. Due to the nature of testifying in court and what is expected from witnesses, children may experience this environment more hostile than older persons, therefore all children should undergo competency assessments before standing trial as this may influence their reliability in court. This finding definitely demonstrates the need for practitioners having knowledge on how to interview children.

Figure 15: Knowledge on interviewing children

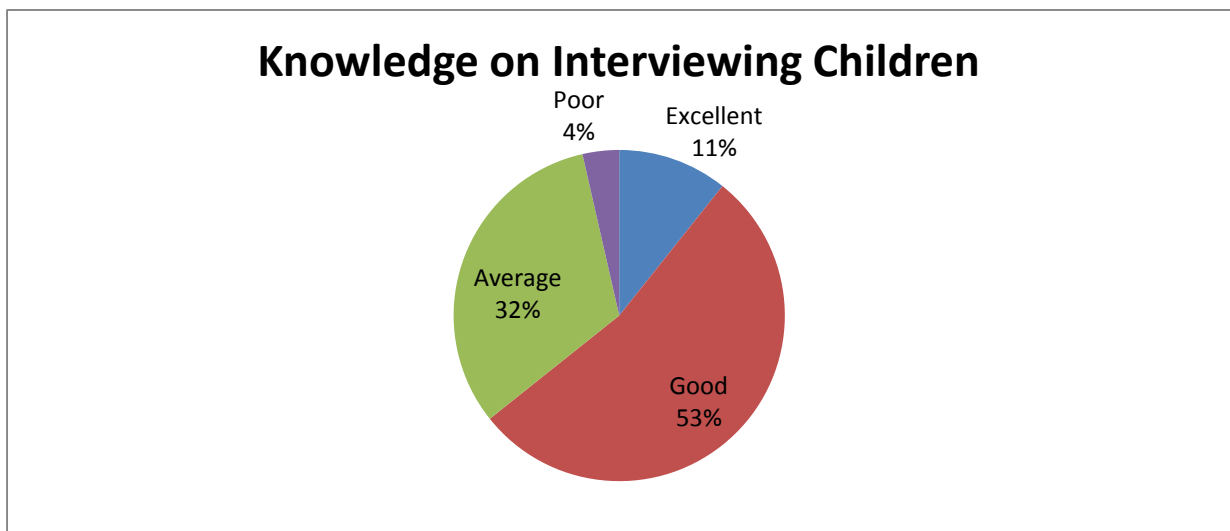


Figure 15 demonstrates the respondents' knowledge on interviewing children which is good (53%), average (32%), excellent (11%) and poor (4%). This further indicates that practitioners feel they have an above average level of knowledge on interviewing children (64%: good and excellent percentages).

Similar to the figures 7 and 8, the respondents generally have a good to excellent knowledge base on child development, sexual abuse and interviewing children. This is of utmost importance as it forms a large part of the work the interviewer conducts with the child. A combination of this knowledge basis is important in order to fulfill any of the duties, and draws on knowledge from these various aspects. In order to gather information from the child, interviews need to be conducted and various interviewing skills are required from the practitioner to communicate effectively with the child. Esplin et al., (2000) demonstrates that the importance of speaking in a language that children understand during interviews may illicit more information than not being able to communicate effectively with these children. A main concern is that if the practitioner is not able to perform an interview effectively it may result in a lack of information gathering required by the court.

Figure 16: Level of training on various legislations

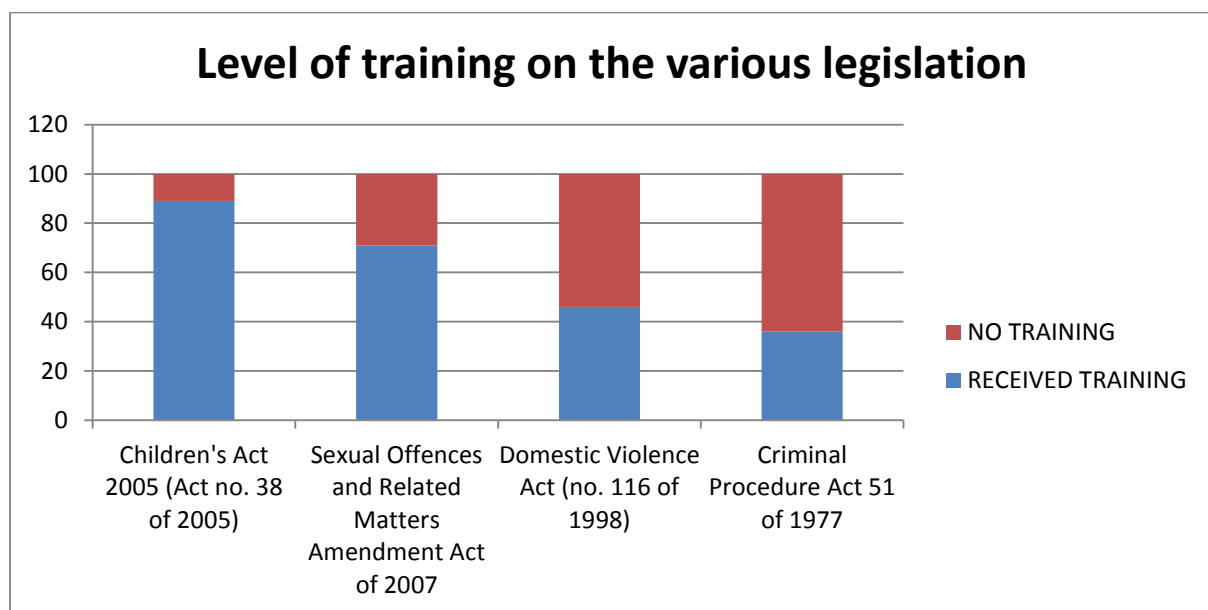


Figure 16 demonstrates the following percentages of respondents who were trained on various legislations include: 89 % of the respondents were trained on the Children’s Act 2005 (Act no. 38 of 2005), 71% trained on the Sexual Offences and Related Matters Amendment Act of 2007, 46% trained on the Domestic Violence Act (no. 116 of 1998) and 36% trained on the Criminal Procedure Act 51 of 1977.

This finding alerts persons to the fact that one may not assume that the professionals are all knowledgeable regarding legislation. This finding may be viewed in conjunction with figure 5, in reflecting on the knowledge base the respondents feel is required by FSW’s and the level of

training they received on the legislation in figure 16. The importance of training on legislation concurs with Stutterheim and Weyers (1999) in highlighting the need for FSW's being knowledgeable of all legislation that pertains to their work in court.

The following section of quantitative findings, Intermediary Services, follows from responses to section D in the survey.

4.2.4 INTERMEDIARY SERVICES

- In your opinion, under what circumstances may an intermediary be used in court to assist children?

"I think intermediaries should be used in all circumstances when a victim who is under 18 years old has to testify under camera. It helps to give children some form of support as most of our courts are not a friendly environment especially to children." (Respondent 1)

The following respondent reiterated the effects which court processes may have on children.

"When the development of a child is such that he may need such services and when it has been established that the level of abuse, child development and court processes may cause secondary victimization." (Respondent 3)

The following respondent highlights the use of an intermediary to buffer the effects of court processes and matters on the child.

"When the matter is too stressful for the c/c, usually the intermediary is used to ensure the cc feels safe while giving evidence." (Respondent 7)

It appears that the use of intermediaries within the justice system is to protect the child from undue stress in court and the effects undergoing these processes may have on the child. This concurs with Schoeman (2006), who identifies the role of the intermediaries to help children testify under conditions which allow for them to provide the court with their best testimony.

- Are intermediaries used in court to assist children?

The response rate for the afore-mentioned question was answered by 96% of the respondents as yes, and 4% answered no. This proves that intermediary services are used in court to assist children. This finding proves that the justice system do give effect to their legal mandates which

promotes the use of intermediary services as reflected in the Criminal Procedure Act 51 of 1977 and other pieces of legislation which protects the rights of children.

- How often are intermediaries used in court for children? Please explain?

“Most of the times if the child is less than ten years.” (Respondent 6)

The following respondent echoes the afore-mentioned respondent.

“When children are younger than ten years and also to cognitive improve children.” (Respondent 9)

The following respondent alludes to the role of the social worker requesting the use of an intermediary.

“I think they are used every time when it is recommended that there should be intermediary by the social worker.” (Respondent 11)

It appears that the respondents feel that children under ten years old should always be accompanied by an intermediary and that the social worker is the one who may recommend the use of these services to the court. This finding is supported by Schoeman (2006) in stating the presiding judicial officer may grant for such recommendations in cases and is in aid of allowing the child to give their best testimony in court. The intermediary, therefore, can relate questions to the child in a manner which he/she can understand and communicate effectively.

If the use of intermediary services are not requested for in court and the child is not deemed as a competent witness, the researcher aimed to ascertain and understand the process which would then follow from that point onwards.

Figure 17: What happens to the case if the child is found not competent

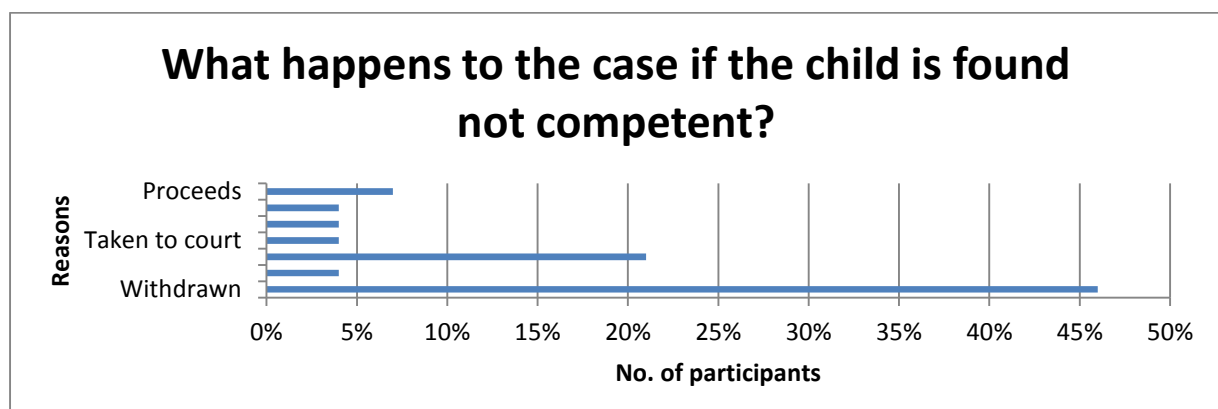


Figure 17 demonstrates the results of a case if the child is not found to be competent in the assessments. Almost half of the respondents (46%) reported that the case will be withdrawn from the court roll if the child is found not to be competent. The likelihood of a case being postponed is 22% of the cases encountered by the respondents, which often leads to these cases being withdrawn. This is alarming as the conviction rate of the perpetrators is low and results in children having undergone possible secondary trauma with the disclosures they have made and various assessments undergone.

There are many points at which attrition occurs and is often the result of the lack of ‘team work’ within this multi-disciplinary team. In order to improve conviction rates, the roles and responsibilities should be clear for each role-player, and needs to be adhered to according to Vetten et al. (2008). If the child is found not to be competent, there appears to be quite a definite result which may stem from this inference. The respondents were very confident in the outcome of this and are mindful of how challenging prosecutors may be, as well as the hostile environment within the court.

Figure 18: Are intermediary services adequate in allowing the voices of children to be heard in court?

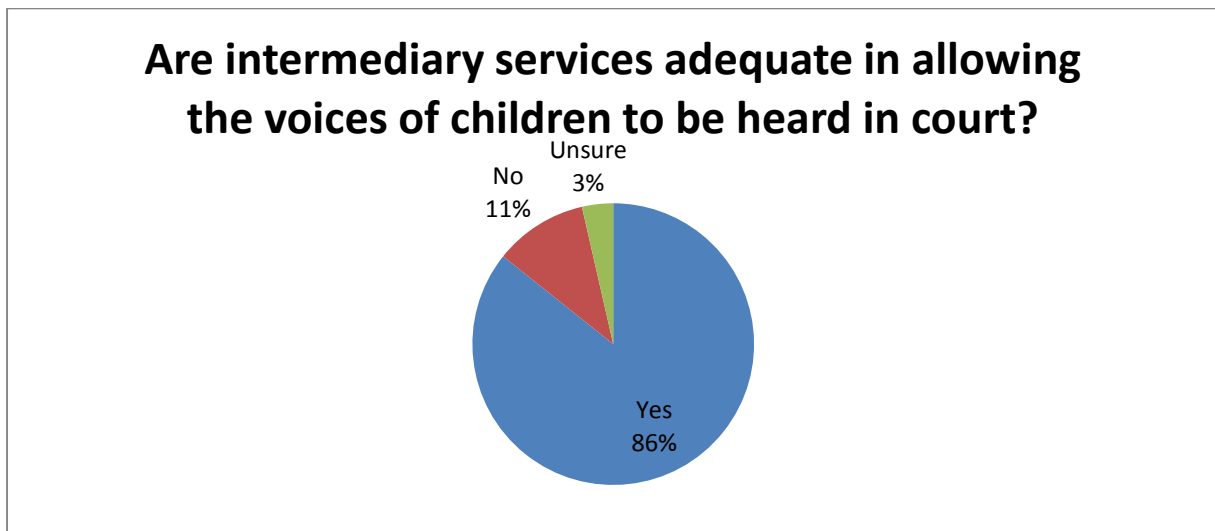


Figure 18 demonstrates the level of adequateness intermediaries demonstrate in delivering services to child victims of sexual abuse according to the respondents (86%).

This finding validates the judicial system does adhere to The Constitution of the Republic of South Africa (1996). The Constitution (1996), allows persons to be treated equally in front of the law and not be discriminated against. All citizens, therefore, have a right to life, human

dignity and security from violence, the right to be equal in front of the law, have his or her case heard, to receive public services and information. The services of the intermediary allows for the child to improve on their communication skills and to be understood when explaining things, which help the voices of children to be heard, assist them in their communication and create a safe environment for them. The recommendation for the use of an intermediary is stated in the competency report. Similarly, the United Nations Convention on the Rights of the Child (1989) makes provision for children to have the right to express their views on matters which affect them. This too may allow children to be given the right to want an intermediary present in court or to testify in a special room and not have others decide whether they are entitled to this 'benefit'. One may argue that children should be informed of this option and/or guardians as to what is in the best interests of the child. The African Charter on the Rights and Welfare of the child (1990) also says that children may give their views on any administrative proceedings affecting them and that they have the right to be heard, whether it is through themselves or an impartial representative. One may then question under what conditions would a child not require intermediary services?

Figure 19: Children can stand trial without an intermediary depending on their...

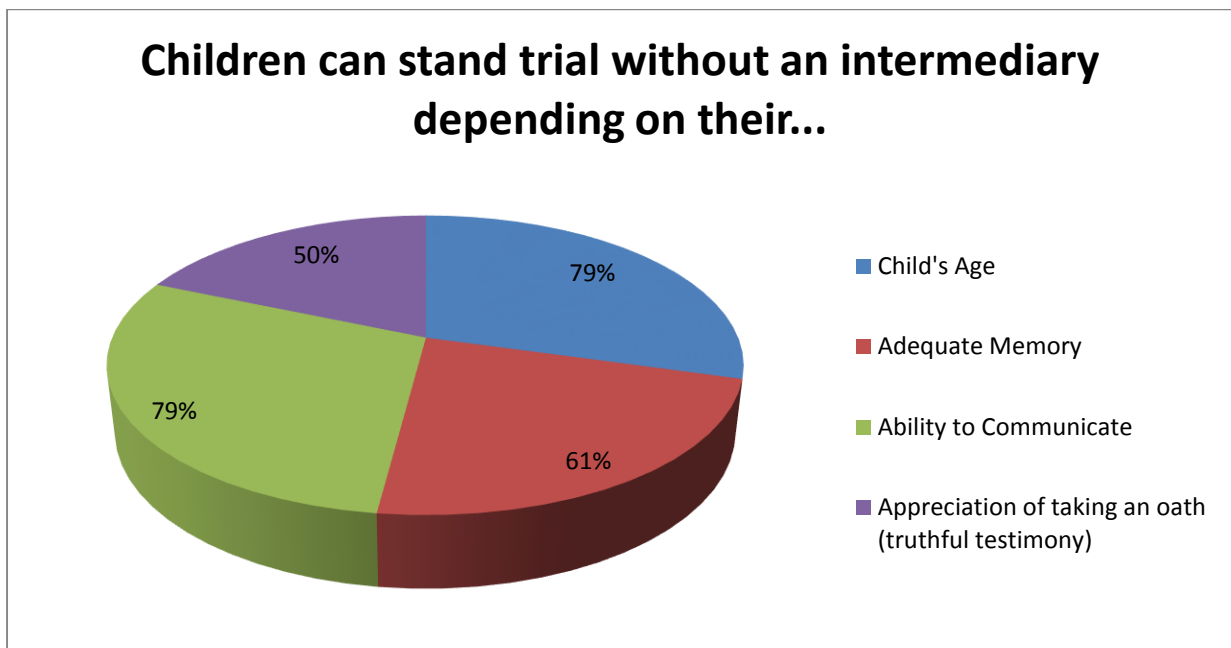


Figure 19 demonstrates the aspects which determine whether a child may use an intermediary in court. The criteria which appears to be the highest for this consideration is the child's age (79%) and the child's ability to communicate (79%). Interestingly, these are the same criteria which exist in order to find a child to be a competent witness. One may deduce that if a child

is not considered competent, the child may not be able to testify as a witness in court but may then access services from intermediaries in order for the case not to be withdrawn. However, if the forensic social worker recommends that the child may be competent with the help of an intermediary, then the child may be granted to utilise these services.

The need for intermediaries within the justice system is very important. According to Schoeman (2006), intermediaries assist children in various ways to protect them from being enmeshed in the justice system, and ask children questions in ways which they can understand and communicate effectively, resulting in them giving the best testimony they can. This is vital, as often victims are key witnesses within trials, especially when there is not sufficient evidence in court. Competency reports are a means where such a recommendation could be made to the court by the forensic social worker. The court should take this into consideration and grant these services to the victim in court.

- **In your opinion, to assess a child’s ability to observe events, have adequate memory abilities to recall events and communicate effectively requires...**

“Various assessment techniques that will allow the child to tell his or her story. Then one can see if the child recalls events and able to verbalise them appropriately.” (Respondent 1)

The respondent did not mention which assessment techniques, however the following respondent was the only one who reported a competency assessment.

“A competency assessment.” (Respondent 16)

The following respondent reported using the use of play therapy.

“Requires the use of play therapy – to be able to demonstrate.” (Respondent 22)

This finding concurs with Cheung (2003) in saying that competency assessments are used to determine the child’s ability to observe events, adequate memory recalls to events and being able to communicate them verbally. Secondly, assessing the child’s ability to distinguish between a truth and lie (fact and fantasy) and thirdly, to provide a platform for the interviewer to establish the importance of telling what really happened and not making anything up is crucial to determine. The respondents are correct in saying that various assessments may be used, and although they did not specify in-text which tools to use, Kuehnle (1998) provides a cautionary rule in utilizing anatomical dolls in asking children to demonstrate various activities.

- **In your opinion, what type of assessments are required to establish competency of child victims?**

“You need to be on the child’s level and use play therapy as it has lots of techniques and allow the child to choose the one she/he like best.” (Respondent 2)

The following respondent too highlights play therapy as a form of assessment used to establish competency in child victims.

“Play therapy – anatomical correct dolls, art therapy.” (Respondent 22)

The following respondent concurs with the afore-mentioned respondents.

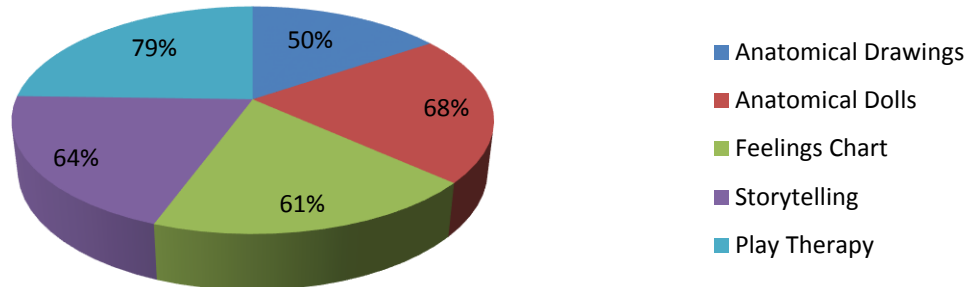
“Age assessment and play therapy” (Respondent 24)

This finding is significant for the researcher, as play therapy techniques appear to be widely used in competency assessments and possibly forensic interviews with child victims. This may speak directly to the lack of training, whether formal or informal received by the respondents in fulfilling roles of FSW. Sixty-eight percent of the respondents utilise anatomical dolls in their assessments with the children. According to Kuehnle (1998), there are various levels of risk which are posed by the use of this assessment tool and should be used with caution. The manner in which it may be used which poses the least amount of risk is for it to be used as a comforter or ice breaker, to test their ability to identify body parts and for general questions regarding sexual knowledge. This finding suggests that in some cases these dolls are used to diagnose sexual abuse, which Kuehnle (1998) warns against. The use of the anatomical dolls as an ice-breaker is the suggested manner to utilise this tool as it poses the least risk to the child and their credibility. Cronch et al. (2006) suggests practitioners use a touch survey to explore a range of touches from good to neutral to bad touches where children can identify which one they have experienced and may be used in collaboration with other assessment tools, such as the anatomical dolls. This may allow for a greater chance of disclosure and information gathering from the client. From these assessments, the report is written and called a competency report. The researcher further explores the legal requirements regarding a child’s competency, and what the outcome is if the child is found not to be competent.

From the afore-mentioned findings, one would have to take a closer look at the assessments utilized by the practitioners in determining the competency of a child.

Figure 20: Techniques used to test the Competency of a Child

Techniques used to test the Competency of a child



According to Figure 20, the practitioners use a variety of tests during assessments with the children; the most used type of assessment is Play Therapy (79%) followed by Anatomical Dolls (68%) and Storytelling (64%). The least likely assessment tools utilised is the Feelings Chart (61%) and the Anatomical Drawings (50%). Play Therapy may encompass numerous assessments and may not be a true reflection of what this ‘cluster’ entails. One may, therefore, not assume that other assessments are not used; however, this sheds light on the fact that this technique is very popular amongst the respondents. An important aspect to be cognisant of is the interpretation of the practitioner and how she/he give effect to this, which may differ, and hence bring forth various types of information within the competency report.

The afore-mentioned does not reflect the type of assessments which are used in interviewing child victims of sexual abuse regarding competency as demonstrated in the SAPS FSW Procedure Manual (2013). There is no literature found to concur with this finding, that play therapy techniques are used within a forensic setting. This is alarming as play therapy techniques appear to be prohibited in FSW practice however, from the responses to open-ended questions in the survey, it appears that it is occurring within the Gauteng Province.

The following section of quantitative findings, Victim Services, follows from responses to section E in the survey.

4.2.5 VICTIM SERVICES

Figure 21: Do you provide victims with other supportive services?

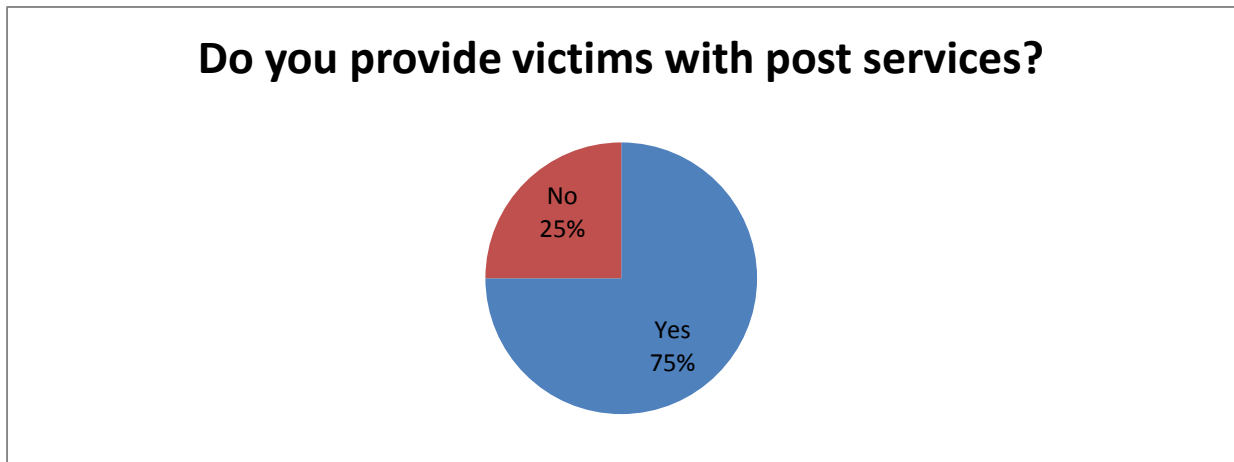


Figure 21 demonstrates that 75% of the respondents provide the victims with direct service post competency assessment and competency reports. These include play therapy, individual and/or group sessions and forensic interviews including court preparation, or finding a place of safety, provide therapeutic counselling or victim support. The respondents were asked whether they link victims to further support services such, 89% of the respondents said that they do refer victims for further services.

It is always important to remember that there is a multi-disciplinary team which is involved in this process and that there is always an interchange of clientele for services. The practitioners feel that services should be easily accessible to the clientele. According to Green, Traupmann and Thorpe (2005), FSW's have the responsibility of ensuring that victims are not further marginalised and that they receive all the supportive services that are within their best interests. The researcher is of the opinion that roles should not be mixed and interchanged with victims, for example if the FSW has done the assessment of the child; it is advisable not to provide therapeutic interventions with that child.

- Do you link victims to further support services? If yes, please mention a few...

According to the respondents, 89% of them said yes and 11% reported that they did not link victims to further support services. The respondents mentioned numerous organizations within Gauteng Province and to support groups such as victim empowerment programmes, trauma centres and child welfare services. This finding is supported by legislation which makes provision for the continuum of care and provision of services for example children involved in

criminal cases and being found to be children in need of care, this link therefore utilizes the Criminal Procedure Act (1977) and the Children’s Act (2005).

- **In your opinion, what additional services do you think are required for child victims of sexual abuse?**

“On going therapeutic services.” (Respondent 3)

The following response echoes the previous respondent.

“On going therapeutic services need to be intergrated, as children often not take to these services by their parents’ relatives.” (Respondent 5)

The following statement concurs with the afore-mentioned respondent.

“Long term therapy.” (Respondent 7)

This finding is supported by legislation which governs intervention with children who enter the justice system and/or are deemed in need of care, as legislated in the Criminal Procedure Act (1977) and the Children’s Act (2005).

Figure 22: Does the training of forensic social workers allow them to be effective in their practice?



Figure 22 demonstrates that overall the practitioners were in agreement that the training of FSW's allows them to be effective in their services which are excellent/good (36%), Average (18%), Unsure (10%).

In questioning what the practitioners find as gaps in their work in order to be more effective, respondents highlighted experiencing language barriers with children they come in contact with, doing effective assessments and difficulty in writing reports. Similarly, there is the lack of training provided for working with traumatised children, mentally challenged children and general protocols for children of certain age groups within South Africa. What the practitioners have observed is that not all cases of child sexual abuse get referred to a forensic social worker, which may be due to the fact that there is a shortage of FSW's in general. An improvement of the afore-mentioned may increase conviction rates of offenders and/or less people report the crimes committed.

- **As a practitioner having first-hand knowledge of practice complications, do you have any recommendations to South African Police Forensic Social Workers to improve on service delivery:**

“Extensive skills training in forensic assessment.” (Respondent 3)

The recommendation is supported by fellow respondents.

“To train and employ more forensic social workers.” (Respondent 7)

The following respondent concurs with the afore-mentioned statements.

“To have more forensic social workers.” (Respondent 10)

The following study concurs with Jonkers (2012) in recommending more specialized training in the field of FSW to persons practicing in the field. Due to the existence of one institution which offers FSW as a post-graduate degree, and the representation of academic credentials amongst the respondents, it appears that there is a need for this training. This would be expected of institutions to not only offer ‘on-the-job’ training to persons employed as FSW's but that the service providers are accredited and are in accordance with the ethics of the NOFSW Ethical obligations as enlisted in Green et al. (2005).

- **In your opinion, what are the gaps in FSW's concerning Child Sexual Abuse cases for five to ten year olds?**

“Big gap because not all cases are reported to Forensic Social Workers.” (Respondent 2)

The first respondent raises the concern of the amount of cases referred to the FSW's and the following respondent highlights the gaps in the work done with the child by the FSW's.

“Assessment not done well, intervention and other aspects not followed, conclusions and recommendations not clear.” (Respondent 4)

The following respondent highlights the difficulties in working with children who are traumatized.

“Having to work with passive and withdrawn children. A child who just being traumatized and can't talk.” (Respondent 14)

The afore-mentioned gaps in the field, are deemed important knowledge to have in child development and interviewing techniques as concurred by Anderson et al. (2010), Carrick et al. (2010) and The Crown Prosecution Service (http://www.cps.gov.uk/legal/a_to_c/child_sexual_abuse/#a13 on the 22 July 2014). The researcher is of the opinion that with these necessary training gaps filled, the respondents will be more competent in dealing with these situations and be able to address challenges regarding the credibility and competence of victims of child sexual abuse.

The afore-mentioned were all finding presented from the survey, the qualitative findings of the research will be presented below. It is important to note that the focus group may provide more explanatory views on opinions which were generated from the survey due to the nature of qualitative research.

4.3 QUALITATIVE RESEARCH RESULTS GENERATED FROM THE FOCUS GROUPS

4.3.1 Framework of Analysis

The framework of analysis, Corbin and Strauss (2008), was utilised to capture themes, categories and sub-categories which came from the analysis of the focus groups.

Table 5: Framework of Analysis

THEMES	CATEGORIES	SUB-CATEGORIES
Role and Importance of Competency Reports	<ul style="list-style-type: none"> - Importance of Competency Reports - Criteria for Competency Reports 	<ul style="list-style-type: none"> - Substantive reasons - Subjective process - Age of child
Competency Assessment Process	<ul style="list-style-type: none"> - Interviewing - Assessment 	<ul style="list-style-type: none"> - South African Protocols - Assessment techniques
Legal Requirements	<ul style="list-style-type: none"> - Roles and responsibilities - Competent or Not Competent children - Intermediary services 	<ul style="list-style-type: none"> - Ethical considerations - Impact on child - Role of intermediary - Efficiency

4.3.2 What is the role and importance of Competency Assessment and Competency Reports in the forensic interviewing process?

The researcher had asked the afore-mentioned question within the focus group and this has elicited a conversation amongst the respondents. The following findings were significant in their responses within the focus groups. The questions of the focus group are the main research questions of the study.

4.3.2.1 Importance of Competency Reports

The sub-category which stemmed from this category (as stipulated in Table 5) finding is that majority of the respondents felt that Competency Reports are important due to substantive reasons.

“Uhm the main reason why we have to do competency assessments is that the court will require those from whoever they’ve chosen to do the assessment. So that we can make an informed decision as to whether we did a thorough job in terms of er dealing with the child.” (Respondent 1, focus group 1: 1)

The afore-mentioned is further supported by the following respondent.

“Yes, I think they are important, er in the way that they help the court to understand, or the prosecution to understand the victim, and every child that they will be dealing with.”(Respondent 10, focus group 2: 1)

It has become evident that competency reports are important in FSW interviewing processes in order to inform the court of factors to consider in dealing with the child victims.

“Uhm, isn’t every child has to go for a competency assessment because when you do the assessment you’re looking at the application for a special court room, one. Two, you are looking at whether the child has uhm had any form of trauma from the event. So, it’s very important because then the report again it stands in court and it assists them in terms of making a judgement. So it’s highly important that each and every child in the system has been assessed.” (Respondent 2, focus group 1: 6)

The main reason for having competency reports is to provide the court with further information of the victim and the impact of the crime committed against them. This finding concurs with Mnisi (2010) that competency reports are important and is an instrument in the judicial process and aids in ensuring that the courts make sound decisions to ensure that justice is achieved. The competency report is therefore used to help the court make decisions in cases of child sexual abuse and for the various reasons stipulated by the respondents. It is important for persons to know why the competency report is important, as often victims are side-lined from the criminal processes. As sexual abuse is a criminal offence as stipulated in the Sexual Offences Act (2007) with the procedures to follow included in the Criminal Procedure Act (1977), as the court is the client of a Forensic Social Worker, it is important to understand the importance and role of a competency assessment and competency report in relation to the role of the court. One also needs to bear cognisance of the Children’s Act (2005) in order to determine whether the child is in need of care and whether a children’s inquiry should be opened too. Therefore, there are many considerations which need to be taken into account in these cases, and the awareness of the interplay amongst these legislation is important to give

effect to addressing competency in children and is needed to be conducted by professionals with this knowledge base.

4.3.2.2 Criteria for Competency Reports

The sub-category which stemmed from this category (as stipulated in Table 5) finding is that the request for competency reports are made by various persons. It appears that there are various persons who request competency reports from forensic social workers, which may be due to victims entering the justice system from various points.

“In our area, it works with, er it’s mostly the police that requests the report and they very often wait for our report before they arrest the perpetrator. So it’s normally the, the report goes through to the court in our case but it is normally requested by the police.” (Respondent 8, focus group 1: 2)

Most of the respondents however, in their experience, have received requests for competency reports mainly from prosecutors.

“I think the order comes from, should come from the Prosecutor. If the prosecutor needs decide he wants a competency report, but because the IO, the investigating officer wants to get it done before the court date they decide to just come to us and ask for a competency report without the knowledge of the prosecutor. They thinking ahead of the prosecutor, the request should come from the prosecutor. There is something that the prosecutor should be compelled on to the knowledge that this child should go for a competency assessment and then they are coming from the IO just to get it done.” (Respondent 12, focus group 2: 5)

The respondents’ further felt that the requests of competency reports should be uniform in terms of the reasoning for the competency report and who requests it.

“Ok, I agree, just to respond to what she is saying. I think uhm it should be uniform, on how the report is used, what information they need. It like differs when the police requesting who calls to say we need your report or who comes to collect your report. But coming to the role and the use of the report I think it really differs.” (Respondent 3, focus group 1: 2)

It appears that competency reports are not requested by one official person but various role-players within the justice system. The fact that so many persons may request a competency report appears confusing at times and possibly problematic amongst the respondents. Prosecutors appear to be the main people who requests competency reports from the forensic social worker. According to Mnisi (2010), the request for a competency report is made by the court to a forensic social worker. The Criminal Procedure Act (1977) states that the court may request a competency report but does not specify which professional should administer this and/or how to go about this instruction. Therefore one may deduce that any professional who forms part of the interdisciplinary team in the justice system and judicial system is able to request a competency report, namely the magistrates and prosecutors. The researcher however feels that this may cause more grounds for discrepancy amongst practitioners if this role is not centralised.

Majority of the respondents' felt that leaving the decision with the prosecutor to request competency reports is a subjective process.

“In uhm I don't know. In my experience uhm the prosecutors can decide whether the child need assessment or not. So anyone who knows a lot about legislation and what they do is, they take a seventeen year old child and say this child is already competent and might need therapy, don't worry about the assessment. So how do you deal with that?” (Respondent 14, focus group 1: 6)

The following respondent echoed the level of discretion used by the prosecutor in this subjective process and the possible consequences of this.

“You know, I wanted to say, I work in court and doing intermediary I've noticed once you start leaving it up to the prosecution to use their own discretion on when to ask reports, children are gonna go fall through the gap. Because like you say, they might take the child is sixteen I'm not seeing them whereas that child, he or she might have needed that you know? And uhm whereas that child is even sixteen you know, you can use your reports. What we sometimes do is we don't take them into the intermediary room we just stay with them, next to them in court sometimes just that little bit of emotional support does help you know. It makes the difference between a good testimony and a nervous child not being able to give a good testimony. So I would say, the best thing would be to ask for all children and then you know you rather don't

then just do such a comprehensive report when it's an older child, but you know if you start leaving it up to prosecution children are gonna fall through.” (Respondent 17, focus group 2: 3)

A few of the respondents appear to have many concerns about the reasoning for which prosecutors' request competency reports from the forensic social workers.

“I just wanted to say we must also be careful of even early in the day when we had a referral letter, I remember, where they put in that uhm whether the child is mentally stable and stuff. We don't get that for years now. But uhm we must just also be careful that when we are, that we are not prescribed by sort of what to say or led that the prosecutor wants us to say this about the child. And that didn't come out in your assessment so because that has happened when they contact you in person and they want the report to specifically state this, and then she said but I can't because then if it came out that the child didn't say that or whatever. So one must just be also careful that when we do get requests from the prosecutor that it doesn't want to lead us.” (Respondent 8, focus group 2: 9)

The afore-mentioned demonstrates the weight a competency report may have in the judicial system and how this may affect criminal proceedings to ensure that the testimony of the child is reliable and may therefore be taken as evidence in the criminal proceeding. The importance of this step displays the influence testing a child's competency plays in criminal proceedings in determining whether or not the child is found competent. This concurs with the findings by Vetten et al., (2008) showing low conviction rates for perpetrators of child abuse due to the lack of information to either proceed to trial or convict the perpetrator. It is therefore important for persons requesting a competency report to know the rationale behind these reports and be able to help the court effectively to make important decisions regarding delivering justice. However if these requests are made by prosecutors and other professionals based on their discretion, cases most probably will affect criminal proceedings if the testimony of the victim is not heard. The United Nations Convention on the Rights of the Child (1989) and the African Charter (1990) further reiterates the involvement of the child in judicial or administrative proceeds which affect them if they are able to communicate their own views, they should be given the opportunity to be heard, whether directly or through a representative. This leads to the other important aspect of requesting competency assessments and reports, are at what age a child should be subjected to this.

The second sub-category is regarding the age of the child, specifically, at what age of the child a competency report should be requested for by the professionals.

“I’m thinking if theories are anything to go by, when they are talking about the development, cognitive and otherwise, it’s not a straight line. So you may have a fifteen year old whose development is at the age of someone who is below nine, or you may have it the other way around. So making that assessment gives the determination of where the child is as far as development, that’s my opinion.” (Respondent 19, focus group 2: 3)

The afore-mentioned highlights the dilemma faced with determining children competent, most of the respondents felt that all child victims should have a competency report requested.

“I beg to differ because from a legislative point of view there might be a contradiction because as you say all children between the ages zero to eighteen needs to be protected. So why are we subjecting others to not being exposed to the open court and others. Because for me, I ideally, I would think that all children should be protected regardless of their competency and their ages. As long as they are children they should be under care...” (Respondent 1, focus group 1: 4)

Most of the respondents felt that one cannot judge by a person’s age whether they are competent or not.

“Ok, I wanted to agree with Sandra about the competency. Like er every child zero to eighteen is a child, so even if a child is competent, you don’t need somebody out there to tell you that the child is competent. It has to be written, there has to be a recommendation, a forensic social worker. And I have found in my days of practice, there used to be some seventeen years old who are not competent and then you get a sixteen year that is competent. So we can’t judge because they eighteen they talk but in court it’s different.” (Respondent 2, focus group 1: 5)

A few of the respondent’s do feel though that not every child should have a competency report requested for.

“From what’s happening now, it looks like every child comes for a competency, but I think, not every child needs a competency assessment because there is that child who is fifteen that can give statements, uhm and the police have a full statement from that child. She she is vocally ok,

she is fine. That child, she might not need a competency assessment but then either way they're being brought to us to do a competency assessment.” (Respondent 12, focus group: 3)

This was further echoed by another respondent.

“I said no, not everyone goes for competency because some children are just competent. They can testify without going through the assessment process, so it's not everyone that is going for competency.” (Respondent 14, focus group 1: 4)

Based on the afore-mentioned, there appears to be a difference of opinion as to what age should children be tested for competency amongst the respondents and how does one decide who should undergo a competency assessment. Based on the definition of children in the Constitution (1996), it would appear that the competency assessment should be offered to all children (under the age of eighteen years old). Due to the discretion of the person who requests the competency report, the FSW's have no say as to who comes for a competency assessment. Secondly, due to the reason for most cases not reaching trial as reported by Vetten et al. (2008), is based on the lack of evidence provided, which weighs heavily on the victim as most of the evidence is gathered from the victim by means of medical reports, the testimony of the child and so forth. The level of competence of the child is therefore important and children should be given the necessary support in providing testimony. The assumptions of the reliability of children's testimony might influence who may undergo a competency assessment as demonstrated by Faller (2007). The respondents have reported that some children are naturally competent, depending on their age, and that there are others who may not be because of developmental or mental illnesses. This finding presents a need for clarity on who should undergo competency assessments and by whom requests for it should be made.

The afore-mentioned collated data demonstrates the practical dilemmas FSW's face in implementing such a critical request from the court to produce competency reports. The importance of competency reports are demonstrated as being requested by various role players in the judicial system, the respondents appear undecided as to whether children of all ages should undergo a competency assessment and that all persons involved in the process of requesting and receiving competency reports should therefore understand the rationale. This would allow the FSW's to establish a standard practice regarding competency assessments and competency reports.

4.3.3 What is required in the Assessment Process from the court of the FSW's?

4.3.3.1 Interviewing

Majority of the respondents felt that there is a need for a protocol unique to South Africa's context regarding producing assessment tools which takes into consideration specific contexts within South Africa and its population. The respondents were not aware of protocols which are utilized for the South African context and find themselves in frustrating positions.

“There should be protocol in terms of, and the Jo'burg court and the Pretoria court and the court in Cape Town needs to be standardized. That you do your work according to a certain protocol and standard, so whether you go to which court, the courts want this from you and you know you understand what you need to give the court. To answer your question; but I think that's the frustration in the field, it doesn't work that way. And in one court you can have two different presiding officers with two different approaches to doing the same thing. That's the frustration we are experiencing in the field.” (Respondent 15, focus group 1: 10)

The following quote rejects the afore-mentioned, as the respondent feels that children are unique and a standardised tool will not accommodate such a variety in clientele.

“I don't think it will help, because it will all depend on what kind of a client the child is. I think all of these things goes back to our own skills that we've gained as social workers. So if it can be able to apply those, then you can have your own assessment tools but if they have a standardized one is going to be unique with each and every situation, or with each and every client.” (Respondent 13, focus group 2, 17)

A few of the respondents supported the need and usefulness of having a protocol developed for the South African context.

“It is about application and interpretation and individualising. Using the tools to individualise what you have in front of you. So a tool would be helpful as a guide, and will stand so that we all don't do our own thing our own way and we don't know why we did it like that or it just felt comfortable.” (Respondent 28, focus group 2: 17)

The respondents appeared to not be aware of protocols which exist for forensic interviewing processes such as the Michigan Protocol (www.michigan.gov/DHS/0,1607,7-124-5452_7119_25045---,00.html, viewed at 22 July 2014) and A Seven-phase Forensic Interview

Protocol by Fouché and Joubert (2009) which is a South African developed protocol. A competency assessment forms part of the phases presented in these protocols and establishes an understanding of the child being able to: develop rapport, assess the child's ability to differentiate between truth and lie and explain ground rules of only telling the truth and accepting 'I don't know' or 'I don't understand' responses as stated by Cheung (2003). There are other resources which practitioners may utilize such as the RATAC Protocol as demonstrated by Anderson et al. (2010), which is a semi-structured interview which may guide practitioners in means to conduct the forensic interview and the competency assessment within this protocol. In conjunction with these protocols are the use of assessment techniques.

4.3.3.2 Assessment Techniques

Majority of the respondents' practice various methods of testing the truth vs. lie test with the children sent for competency assessment.

"Like ok, uhm so let me focus on the question. Yes, there are certain techniques like each one uses because like on varsity we were trained to do your play therapy. So you can use them in a way, you use them in a forensic context. And in terms of really assessing the truth versus lie, like he said, you use just like is it raining outside? And again when you're doing that, you need to be aware of the cultural context of that child. Because sometimes they are not allowed to say something is wrong to an adult, and they are not allowed to say it's a lie. So ja, when you write your report, then you indicate to the court that they need to really consider the issues of culture; especially for that particular child. Then you explain further about the cultural context." (Respondent 2, focus group 1: 12)

The following quote further demonstrates the various assessment techniques used in a competency assessment with children.

"Yes, that's how they test it, well then it would depend. If you go back to the fantasy where like the example that we were making like if I am talking to the elephant am I telling the truth. Some say yes because some elephants can talk, then they take you back to the cartoons that they watch and then you can't say anything because maybe the elephant can talk, so we must be very careful and creative. So in other words comrade it means there is no standardised tools for the assessments." (Respondent 5, focus group 2: 16)

The afore-mentioned infers that not all the respondents are utilising the same tools to establish competency of a child. There are various assessment tools which exist, however, persons only utilise what they have been exposed to at university and training they have received which allows them to justify their work with the victim. This implies that the social workers do not have a database where there are various assessments to choose from and they can decide which one is best suited for the context and use that to determine the competency of the child. The respondents therefore may administer the same type of assessments with children of various ages, developmental levels and so forth, which may either allow for results showing children as competent when they are not or vice versa. This is problematic as it may have consequences once the case leads to trial. Consequently, children may not receive the correct support needed to strengthen their cases in court. It further establishes the fact that various means are required to be tested to establish competency, such as cognitive skills, the ability to communicate events as it happened, distinguish between actual and fantasised events and internal thoughts and images and being able not to be coerced to change his or her reports. Cronch et al. (2006), states that the truth and lie test is used to determine the moral development of children and whether they can distinguish between the two and appreciate taking an oath. It is imperative for assessment techniques to be able to meet the context of South Africa and for practitioners to believe in the work that they are doing.

A few of the respondents appear not to be confident in their assessment tools, which they utilise with the children.

“I just want to say uhm, in terms of the techniques some of the challenges are putting it back to our context. I think what we need to do is to contextualise our techniques because most of them we have in reference to other countries so that is the only gap that I see with our techniques.” (Respondent 2, focus group 1: 15)

This quote is supported by another respondent who shares that the assessment techniques used are challenging to translate into a South African context.

“So we saying they are not uniform, they are not being proven to be standardised and proven. So everybody's using whatever tools they can use to be able to justify what they are doing.” (Respondent 1, focus group 1: 14)

A few of the respondents feel that there should not be a level of inferiority that exists among the respondents and other professionals.

“No, the thing is you don’t have to be er competitive to other professions er tools. Let’s look at what we use as social workers for scientific reasons. That’s what we use, in our profession.” (Respondent 14, focus group 1: 15)

The following respondent appears confident in the work that they do and concurs with the afore-mentioned.

“I just wanted to get clarity, so you said the tools that we use are not scientific. You know, I beg to differ. Because by saying scientific you are saying something is objective, it is measurable and you can proof that these are what ja something like that. So I think the methods that we use are scientific because they are measurable, they can proof anyone, anywhere can use it and get the same results. No difference.” (Respondent 3, focus group 1: 13)

The respondents appear to feel inferior in their assessment tools and presenting their findings in court compared to professionals of the other disciplines within the team, such as psychologists. The interplay between what is deemed scientific and what is not, and having confidence in reporting these findings also place the forensic social worker to be viewed as incompetent when delivering their reports. According to Mnisi (2010), the competency report is a direct reflection on the level of professionalism of the practitioner. This too influences the credibility and professionalism of the professional in the court of law which requires the professional to be confident in their work. One may infer that due to the lack of training the respondents have in the field may be the reason for this. The respondents form part of a multi-disciplinary team and should be competent in fulfilling their roles as guided by the NOFSW Code of Ethics as cited in Green, Traupmann and Thorpe (2005).

The collated data regarding the assessment process which is conducted by FSW’s reflects a need for a protocol which FSW’s may utilise in working with child victims in South Africa. The respondent’s appear to be uncertain regarding which assessment tools to use, presenting their findings to court based on the uncertainty in the work which they conduct. The respondents utilise techniques which they have been trained on and is familiar in implementing those techniques, which they are not completely confident in reporting their work to the court.

4.3.4 What are the legal requirements to establish competency?

The following findings are based on the respondents’ knowledge and understanding of the legal requirements of establishing the competency of children, as demonstrated in table 5.

4.3.4.1 Roles and Responsibilities

Majority of the respondents appear undefined in their roles and responsibilities within this process.

“I agree with you. I think the biggest problem we have right now is forensic social workers doesn’t lead the process. The prosecutors lead the process.” (Respondent 15, focus group 1: 7)

The following respondent elaborates on the afore-mentioned response.

“I agree with what (respondent) is saying, we constantly need to prove ourselves to other professionals because ours is an extra skill that they do not understand. They think it’s just easy, we just trying to put things together. We need to standardise our tools, everyone common tools that we can use, and be able to prove to other we have to prove to court to say this is what we use; this is what we’ve come up with. But somebody somewhere else is using something else, so it is about confusing the world out there, about the profession. That’s all I’m saying.” (Respondent 1, focus group 1: 16)

The feeling of not being recognised in their role within the profession provides an unstable ground from which these respondents work in establishing their own competency in their field.

“Actually I wanted to add on to what she was saying because we as social workers we don’t have that authority (unclear: 17:48:5) to say yes (unclear: 17:52:3) The prosecutors are the ones (unclear: 17:56:5). The prosecutors come to us looking for an assessment, what is it that they look for?” (Respondent 19, focus group 1: 7)

The respondents appear to feel inferior towards the legal practitioners and do not know what their legal standing is. This, therefore, allows for a lot of power indifference amongst the professionals, and some seeming more superior in comparison to the rest and ‘abusing’ their powers to get information they need from the FSW’s. This establishes the fact that all professionals need to be on the same page regarding competency of a child witness and be knowledgeable of their roles and responsibilities and how they interplay with one another. Cross, De Vos and Whitcomb (1994) support this and state that prosecutors decide on which child should be able to testify based on their age, the severity of the abuse and the relation to the perpetrator. As the specialisation of FSW is in the process of establishment, this may make it easier for the respondents to overcome these challenges as their roles and responsibilities will be made clear. After administering their competency assessment, this information is captured

in a competency report. The establishment of the profession may assist them in being confident in their work and being recognized in the field, and not be as fearful as to the scrutiny of their work.

4.3.4.2 Competent or not competent children

Based on the assumption that cases which do not reach prosecution as demonstrated in Mengel (2008), due to a lack of evidence, the following demonstrates what is recorded in a Competency Report.

Table 6: What should be included in a Competency Report?

What is required from the Forensic Social Worker in Competency Report? Respondents (2013)	Corroborated by Literature/Refuted by Literature
Introduction <ul style="list-style-type: none"> - Reason for referral - Techniques used for Assessment 	<ul style="list-style-type: none"> - The techniques used for the assessment should be age appropriate and fit for the purpose of the assessment as indicated by Anderson et al. (2010).
Victim information	<ul style="list-style-type: none"> - This information is relevant in order to identify the victim in the case. - The need for this information was not corroborated or refuted or supplemented by the preceding literature.
<ul style="list-style-type: none"> - Details of the Referral Person/Investigating Officer - Qualification of the professional 	<ul style="list-style-type: none"> - The need for this information was not corroborated or refuted or supplemented by the preceding literature. - The NOFSW’s Code of Ethics Preamble, as stated in Butters and Vaughan-Eden (2011), demonstrates that persons should

	<p>be fully qualified with the required credentials, background and experience to perform the duties expected from them.</p>
<p>Observations</p>	<ul style="list-style-type: none"> - The observations made by the respondent is important in determining how best to communicate with the child is supported by Anderson et al. (2010), which include noting the attention span of the child, their memory, use of language and their comprehension.
<p>Things to investigate/assess and comment on:</p> <ul style="list-style-type: none"> - Cognitive development - Emotional development - Interpersonal relationships (Family/perpetrator) - Truth versus Lie Test - Narrative/Chain of events - Competency Assessment <p>Other:</p> <ul style="list-style-type: none"> - Ability to stand trial - Language development - Culture/Religion - What type of questions can be answered - Education level - Personality - Moral reasoning - Need for intermediary/special room 	<ul style="list-style-type: none"> - To comment on the cognitive and emotional development of the child, requires the respondent to have the necessary knowledge and skill to determine these as stated by Green et al. (2005). - Carrick et al. (2010) requires respondents to understand at which age children are able to identify truth statements versus being able to identify these, and be able to report on it in relation to the developmental level of the child. - The list of the aspects to be assessed and commented on during this assessment, is supported by Anderson et al. (2010), Carrick et al. (2010) and Comparo and Saywitz (1998) and

	the SAPS FSW Procedure Manual (2013).
Evaluations/Literature	- Analytical and evaluation skills are important, the ability to write objective reports and utilising literature in these reports is supported by Green et al. (2005).
Recommendations	- The recommendations is based on the afore-mentioned data gathered, the evaluation in conjunction with the literature and the expert knowledge of the respondent which is what the court requires from the practitioner according to Mnisi (2010).

The afore-mentioned table demonstrates the respondents' knowledge of what should be included in a competency report and a review of literature to support or refute their responses. The competency report personifies all the information gathered from various aspects and expertise of the professional's work with the child victim. It encompasses information about the credentials of the professional and experience, the various types of assessments utilised to prove competency and a disclosure from the alleged abuse, including its impacts. The competency report therefore should not be viewed in isolation as the credibility of the professionals work also impacts on the credibility of the child's testimony based on what information is in the report. Hence report writing is a skill, which the respondents need to possess.

It appears that many of the FSW's feel frustrated in compiling a competency report as it is always changing depending on the prosecutor and the court in which they work.

"In terms of social work, the child would be competent; in terms of the law, the defence attorney will rip a kid. We as social workers find that the child is competent if he can more or less say this incident happened in the morning it happened in this room in the house. But the defence they will say, in the morning what time? Now I mean, even for us as adults, pin pointing

a time to it...so that really is also a really tough thing. So how competent in terms of intellectual...” (Respondent 15, focus group 1: 11)

A few of the respondents are asked to test the child’s competency, even up to the point before a child is due to appear in court or deliver their testimony.

“Because you know there I sat, I even wrote a letter to the court saying that it is not really fair for the child and also myself ne. I feel I’m failing the child and then they said that if they keep on postponing and postponing, so your delaying the court so you also delaying the manner in which they handle the case. So at the end of the day, my office didn’t do anything so who am I? But it is relevant, I’ve raised it a lot of times to say no you need ample time and this child needs to go for counselling so that when you come and meet the child, then at least they are able to recall from the counselling they are able to talk and they are not scared but within five minutes what do you expect me to get? Everything is fine, let’s go in there and give me the victim. She doesn’t know me, it’s the first time she comes into contact with me and I’m trying to be friendly so it’s kinda intimidating.” (Respondent 21, focus group 2: 11).

The afore-mentioned finding further demonstrates how easily cases may be withdrawn, especially if the child is the only witness there is and not enough other evidence from gathered from other members of the multi-disciplinary team. According to Leander (2010), there is a process which police have to undergo to ensure that they receive a statement from the victim, which is an informative and descriptive statement of the crime which allegedly occurred. The evidence gained from a medical examination which, according to Martin (2002), the collection of samples of fluids, the examination for or of injuries and many other forms of physical evidence may be conducted with the use of crime kits. Therefore it is vital that a child is competent to stand trial should there not be enough evidence; the testimony of the child has a strong influence in court. According to Mengel (2008), legal practitioners need to be trained on reasons why children’s statements change and not use this as a form of dismissing their statements in general. Competency assessments appear to be ‘an aspect’ of forensic interviewing which does not get the recognition it should, as the competency report may be influential in court proceedings and may need to be highlighted as an important step within the forensic interview process. As demonstrated in Table 6, to produce a competency report requires more time than the manner in which it is requested for in practice.

4.3.4.3 Intermediary Services

Respondents felt that it was very important for all children to have access to an intermediary.

“In my experience with intermediaries’ ne, the prosecutor will just call and say please come and assist us, we want to see if this child can testify, if this child can remember what happened and that’s it. That’s their request. They don’t even want a written report, I’m called in, the child is sitting there and I’m told ok, here’s the child, get to know him or her and in five minutes and in ten minutes the court is starting. There’s nothing in writing that I must provide, it used to happen a lot and because I was new in the field I didn’t even know that that is not supposed to happen like that. And there was no training provided so I just did intermediary just by observing one of my colleagues and I had to stand in.” (Respondent 21, focus group 2: 9).

The respondent’s further reports the use of intermediary services in light of the role of the prosecutor requesting for competency assessments and competency reports recommendation for the use of an intermediary.

“Even if you say with the help of an intermediary, the intermediaries don’t even meet sometime, he’ll just phone and say, what’s happening with the case, it’s thrown out of court. But did the child testify? The child cried that’s the reason. Ok, the child cried, fine but I stated in my report this child cried during my assessment, but given time she composed herself and then was able to narrate to me but this prosecutor did not read. He told me he got into the court, cried and the case was withdrawn. So the value of my work is not taken into consideration.” (Respondent 20, focus group 2: 15)

Similarly, some of the respondents further demonstrate the means in which children’s competency are tested before testifying.

“I think the same way that he explained it, the court also does the same, because he will say is this red and if the child says yes then he’ll say this is not red. And then am I holding four fingers and then the child would say yes, then they’d say yes ok go ahead the child is competent.” (Respondent 5, focus group 2: 16)

From the above collated data, it appears that the respondents’ experience ethical dilemmas within their work and forming part of the multi-disciplinary team. Due to the other pressures, which they already expressed specifically from the prosecutors, they too feel inferior to report such malpractice. Based on the recommendation of the forensic social worker to allow intermediary services to their child witnesses, it would be assumed that the child will receive

these services. Although the assessment was requested by the prosecutors, the respondents feel that their recommendations are not always implemented. In terms of instances of malpractice or alleged malpractice amongst practitioners, these practitioners have to be reported and forms part of the ethical obligations of a forensic social worker. The ethical obligations listed in Green et al. (2005), should too inform ethical obligations for FSW's employed in South Africa as this field is in the process of formalization.

4.4 CONCLUSION

This chapter presented and discussed the findings of the research on competency assessments and competency reports. A display of figures and tables were utilised to demonstrate the findings graphically in conjunction with quotations from respondents who work in the field. It was found that competency assessments and competency reports are important within the forensic interviewing process, with the role of informing the court on how to effectively communicate with the victim and to understand the victim holistically. The competency assessment process therefore requires the forensic social worker to have interviewing skills and utilise assessment techniques to determine competency of a child which is developmentally appropriate. Lastly, the legal requirements in establishing competency stemmed mainly from the ethical responsibilities of the practitioner, and being able to effectively evaluate the information gathered and offer recommendations to the court. The afore-mentioned are in response to the main research questions of the study gathered from the focus groups. The following chapter would present the main conclusions and recommendations, which stemmed from the findings.

CHAPTER 5: CONCLUSIONS AND RECOMMENDATIONS

5.1 INTRODUCTION

This chapter will use the research objectives of the study to display the main conclusions in terms of the findings. The conclusions will give light to the recommendations.

5.2 MAIN CONCLUSIONS

5.2.1 What is the role and importance of Competency Assessment and Competency Reports in the Forensic Interviewing process?

Competency assessment and competency reports are important in forensic interviewing processes. FSW's realise the importance of their work although it appears that they feel frustrated, undervalued and misused by other professionals within the multi-disciplinary team. It appears that the multi-disciplinary team as a whole is fragmented, with many persons not knowing their roles and how this form of report fits into the whole process of determining the competency of the child. Further work therefore needs to be done to establish the importance of competency assessments and competency reports for both FSW's and other role players within the criminal justice system.

The criteria for which child victim undergoes competency assessment and for whom a competency report is administered is inconsistent in practice. FSW's do not start this process, although they are the ones who compile all the information necessary for the court. This further calls upon members of the multi-disciplinary team to understand their roles and importance of the work done by FSW's. As the forensic social worker does not lead this process the assessment is mostly requested by the prosecutor and/or magistrates. It is recommended that further research regarding the role of prosecutors within the multi-disciplinary team as it would shed light on the complexities needed to be established for child victims to be deemed 'competent' in terms of the law.

The researcher is of the opinion that the main research question was answered and that the first objective was met. It was established that competency assessments and competency reports are important in the forensic interviewing process and that there is a need for this to be understood within the multi-disciplinary team as an important function of the FSW. Determining the competency of children and writing a competency report should be administered by a qualified

professional and further training is needed for all persons to understand the importance thereof within the field.

5.2.2 What is required in the Assessment Process from the court of the FSW's?

FSW's need to contain a highly skilled set of guidelines when conducting competency assessments and writing competency reports. It appears that credentials in the field vary among the respondents. Many persons had various gateways into the field, whether it was due to passion, number of years' experience and/or for other reasons. Currently, there are many FSW's who are not able to compile competency reports, and have a lack of assessment tools to utilise in assessing the child victims. This results in the work of the forensic social worker not being credible in court and contributes to the low conviction rates in cases of child sexual abuse; therefore there should be a clear pathway for someone to gain credentials and credibility in FSW. What is needed is a cross-national study regarding the qualifications of persons occupying or fulfilling the duties of a forensic social worker. Further research might investigate this and be able to identify the qualifications and effectiveness of persons within this field and recommend a way forward to address possible gaps identified.

The practice of FSW is misguided in terms of being practiced differently both nationally, from organisation to organisation and/or from forensic social worker to forensic social worker. There may be various reasons for this occurring, including the fact that there is no standardised procedure which allows for a united front in the profession and for the work to be uniform thus increasing its standard and credibility. Therefore the development of structured protocols will be beneficial in that one may be able to create a standard of work which is acceptable in all courts of law within South Africa. It is suggested that the association of all these factors is investigated in future studies.

To establish competence of child victims, the use of assessment tools need to be age appropriate, developmentally appropriate, language appropriate and empirical, thus allowing for empirical results. The use of various assessment tools is important in order to demonstrate that all factors have been assessed and that there was no room for there to be any incongruences or doubt of a child's competence to stand trial. There are various assessments utilised to determine the competency of child witnesses and are administered differently. Further work needs to be done to establish various assessment tools which utilise and assess competency within children as defined by the Constitution of the Republic of South Africa (1996) to adapt to the South African context.

The researcher is of the opinion that the main research question had been answered in this research and has shown aspects which needs further exploration regarding assessment techniques used in forensic interviews. The respondents appear to utilize techniques which they have learnt at university (which are not necessarily applicable within the forensic context), and administer assessments differently to other colleagues of theirs which may be due to the interpretation and application thereof or not being trained effectively on how to apply these tools. This is a concern due to the fact that if their assessments are not administered effectively and ethically, their results may be questionable in court. The researcher is of the opinion that the respondents require more training on assessment techniques and how to implement it effectively.

5.2.3 What are the legal requirements to establish competency?

There are no pieces of legislation that speaks directly to FSW's which guides their practice. This leads to role confusion and places the practitioner at a disadvantage compared to other disciplines which are well structured and grounded in legislation. There is, therefore, a definite need for the establishment of legislation in which the roles of FSW's are mandatory and utilised in conjunction with a Procedural Act to give effect to legislation. There is definitely a need for a clear direction of roles and responsibilities for all professionals who work in cases of child sexual abuse. As the establishment of the FSW Bill is still in its drafting stages, the profession is in the process of establishing its legal mandate.

To establish the legal requirements for determining competency of a child witness appears to be complicated as the FSW's are not able to decide which child is sent for a competency assessment. This finding could help shed light on practical implications within the field of FSW and help shape legislation regarding this issue (as previously mentioned regarding prosecutors requesting competency assessments).

Intermediary services in child sexual abuse cases are important. Intermediaries assist the child in court processes to communicate effectively and relinquish some of the negative effects of the courtroom. South Africa has a diverse society and is presented with extra challenges such as language barriers and poverty, which may affect the manner in which a child presents him or herself to the court. The use of intermediaries is able to ensure that the child has a fair chance of being heard and understood within this process. Children should be offered intermediary services (up until the age of eighteen years old). More broadly, research is also needed to

explore the role and usage of intermediaries in child sexual abuse cases, and the effectiveness thereof.

5.3 RECOMMENDATIONS

5.3.1 Recommendations from respondents

Referrals for further services for child victims should occur more frequently as not all the services required for victims of crimes can be provided for by FSW's. The services which FSW's provide do not include therapeutic services and should be mindful that referrals need to be made for ongoing therapeutic services. These need to be easily accessible to the victims and/or their families, and to address the various limitations which hinder victims from receiving them. The alternative is that there should be an increase in therapists or social workers who are based within schools and/or who visit schools to conduct the necessary therapy needed.

Ongoing supervision for FSW's should be prioritised to sharpen their skill base within forensic practice. Many FSW's face various types of challenges in their career and with the misdirection in the field continually need guidance. Some of the professionals, especially those new in the field, may feel pressure from legal practitioners and may fall victims to malpractice or continue the cycle of malpractice. Supervisors play an overseeing role and support for FSW's and buffer burn-out and other foreseeable problems from experienced professionals. The need is to have continuous training and increase the level of competence. This will have various future implications, such as ensuring that all FSW's have training on working with children, children who are mentally challenged and certain age groups, which will allow for the improvement of report writing skills and skills within the courtroom.

All police stations should have FSW's and become active role players in processes involved in FSW. It appears that police officials form mainly part of the intake of cases where reporting occurs and from that point refer cases to FSW's. This prolongs cases and does not allow for them to be dealt with quickly; even though FSW's are few and overworked, it may still take a long time. SAPS should form part of this process as police are often the first point of call when abuse occurs. It is recommended, therefore, that FSW's are stationed at police stations to ensure their availability and allow for the important information gathering to take place in the most efficient time as possible.

Organisations that are known for their effective service delivery to this clientele should be replicated to ensure that this high standard of work be maintained. This would buffer some

negative implications for these organisations, such as being overworked and understaffed. Due to the high need of such services, this may cause a greater influx of clients, which may deteriorate or challenge the quality of service delivery. Many other post-therapy services are also needed, such as integration and reintegration programmes for child victims of sexual abuse, which would help them establish coping and prevention mechanisms.

5.3.2 Recommendations from the researcher

These findings suggest several courses of action which include the need for the professionalisation of FSW as a social work specialism and the development of Procedural Acts. There is a definite need within the field as there is no piece of legislation which stipulates the role of a forensic social worker within the justice system. The advantage of their being a Procedural Act is to allow for uniform or standard practice, where people know what their roles are and how to do their job effectively.

Another important practical implication is that FSW's will be able to be held accountable for their work which they administer and have implications for malpractice within the field. Unless government adopt these types of Procedural Acts for FSW's, these practitioners are left to their own devices and be susceptible to influences from other role-players within the courtroom and their credibility and respect within the field will not be attained. An implication of these findings is that both FSW's and the role they contribute in relation to other practitioners working for the court should be taken into account when constructing these types of legislation. The training of the professionals within the multi-disciplinary team is crucial; each professional should know what their role is, the rationale for their work, what process should be followed, and how this impacts on the child and influences court processes.

The afore-mentioned changes need to be made to increase the work ethic and morale amongst FSW's in order for them to fulfill their duties to the best of their abilities. Their work should be recognised as important and acknowledged within their field. There is a lack of FSW's within the province, both qualified and/or within practice and is an even scarcer skill as compared to social work. Moreover, more bursaries should be made available to encourage students to study social work and/or work in contexts such as the clientele served by FSW's. Monitoring and evaluation of these processes need to be implemented as one is able to identify gaps within their service delivery and improve on them. A holistic approach is needed in relation to all role players, as well as the need to utilise other organisations for support services

for the victims who enter the justice system. The findings of this study have a number of important implications for future practice and research.

The limitations within the research included a small sample size of twenty-eight respondents within the Gauteng province. This sample size was not big enough to generalise the data to be reflective of the province as a whole. However, the sample was big enough to allude the researcher to the work of a forensic social worker on the ground and the challenges they face regarding competency assessments and competency reports. Another limitation in this research is that the research questions tried to get an overview of these challenges, which was a big scope to cover and could not address certain aspects in-depth. However, the researcher is confident that the research conducted offers a foundation for the future exploration regarding competency in FSW within South Africa.

5.3.3 Recommendations for future research

The researcher found that there is a huge gap in research within the field of FSW in South Africa. The researcher is of the opinion that this study could be adapted and replicated within various provinces, and dedicated to establishing training needs of FSW's to be able to practice within South Africa's unique context. There appears to be minimal research conducted regarding role players working in the field, as many of the research which has been conducted leaned towards establishing roles and responsibilities of FSW's in South Africa and defining FSW, there is a greater need to inform FSW's on the practicalities of the profession.

5.4 CONCLUSION

This research report enlightened the reader to the importance of conducting research on FSW and the role of competency assessments and competency reports in forensic interviewing. Literature pertaining to this field is minimal. However, it provided the researcher with a good base to work from, and identified gaps within the literature, which this research alludes to. The methodology set out the plan of action as to how the researcher conducted her research. The findings were presented and discussed through the use of both qualitative and quantitative data gathered which either supported or dismissed existing literature within the field. The final chapter presented the main conclusion from these findings and recommendations from the respondents, researcher and recommendations for future research.

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APPENDIX A: SURVEY CONSENT FORM

Title of Project:

Name of Researcher:

Participant Identification Number for this project:

Please initial box

1. I confirm that I have read and understand the information sheet/letter (delete as applicable) dated *[insert date]* for the above project and have had the opportunity to ask questions.

2. I understand that my participation is voluntary and that I am free to withdraw at any time without giving any reason. *Insert contact number here of lead researcher/member of research team (as appropriate).*

3. I understand that my responses will be anonymised before analysis. I give permission for members of the research team to have access to my anonymised responses.

4. I agree to take part in the above research project.

Name of Participant

Date

Signature

(or legal representative)

Name of person taking consent

Date

Signature

(if different from lead researcher)

To be signed and dated in presence of the participant

Lead Researcher

Date

Signature

To be signed and dated in presence of the participant

Copies:

Once this has been signed by all parties the participant should receive a copy of the signed and dated participant consent form, the letter/pre-written script/information sheet and any other written information provided to the participants. A copy for the signed and dated consent form should be placed in the project's main record (e.g. a site file), which must be kept in a secure location.

APPENDIX B: FOCUS GROUP CONSENT FORM

CONSENT FORM FOR PARTICIPATION IN RESEARCH

(by interview, focus group, experiment...)

I

being under the age of 18 years hereby consent to participate as requested in the
..... for the research project on

1. I have read the information provided.
2. Details of procedures and any risks have been explained to my satisfaction.
3. I agree to audio/video recording of my information and participation.
4. I am aware that I should retain a copy of the Information Sheet and Consent Form for future reference.
5. I understand that:
 - I may not directly benefit from taking part in this research.
 - I am free to withdraw from the project at any time and am free to decline to answer particular questions.
 - While the information gained in this study will be published as explained, I will not be identified, and individual information will remain confidential.
 - Whether I participate or not, or withdraw after participating, will have no effect on any treatment or service that is being provided to me.
 - Whether I participate or not, or withdraw after participating, will have no effect on my progress in my course of study, or results gained.
 - I may ask that the recording/observation be stopped at any time, and that I may withdraw at any time from the session or the research without disadvantage.
6. I agree/do not agree* to the tape/transcript* being made available to other researchers who are not members of this research team, but who are judged by the research team to be doing related research, on condition that my identity is not revealed. *
delete as appropriate

7. I have had the opportunity to discuss taking part in this research with a family member or friend.

Participant's signature.....Date.....

I certify that I have explained the study to the volunteer and consider that she/he understands what is involved and freely consents to participation.

Researcher's name.....

Researcher's signature.....Date.....

NB: Two signed copies should be obtained. The copy retained by the researcher may then be used for authorisation of Items 8 and 9, as appropriate.

8. I, the participant whose signature appears below, have read a transcript of my participation and agree to its use by the researcher as explained.

Participant's signature.....Date.....

9. I, the participant whose signature appears below, have read the researcher's report and agree to the publication of my information as reported.

Participant's signature.....Date.....

APPENDIX C: SURVEY

Welcome to the survey.

There are a series of questions with clear directions as to how to complete it. Your name will not reflect upon completion of the survey and may be emailed back to the researcher. This survey is to be completed by a Forensic Social Worker, Prosecutor or Magistrates working in cases with child victims of sexual abuse aged five to ten years old.

FORENSIC SOCIAL WORK COMPETENCY REPORT FOR CHILD VICTIMS OF SEXUAL ABUSE

- **Please answer all questions**
- **Anonymity and Confidentiality is valued, and no name is required to complete the survey.**
- **This information will shed light on the importance of Competency Reports and how these should be compiled.**

SECTION A: BASIC INFORMATION

Gender: _____

Age: _____

Cultural Background: _____

Home Language: _____

Highest Education Level or Qualification (e.g. BSW): _____

Profession: _____

Years of Experience: _____

Do you have work experience with child sexual abuse victims: YES NO

Years of Experience: _____

District: _____

SECTION B: PERCEPTIONS ABOUT FORENSIC SOCIAL WORK

1. In your opinion, Forensic Social Work is ...

2. In your opinion, what is required to be employed as a Forensic Social Worker?

3. In your opinion, what specific knowledge do you think is required to be a Forensic Social Worker?

SECTION C: COMPETENCY REPORTS

1. Do you think Competency Reports are important in Forensic Social Work?

YES NO

If yes, please explain...

2. What do you think is included in a Competency Report?

3. In your opinion, what are gaps in the Competency Report that you have identified during your experience of compiling a Competency Report?

4. In your opinion, what information is required in a Competency Report?

5. In your opinion, what is the process to undertake after a child has disclosed sexual abuse to you as a practitioner? (in order of importance)

6. A child has reported or disclosed sexual abuse to you. From experience, what is your initial reaction?

Explain:

7. In your opinion, what level of knowledge do you have in child development?

Excellent	Good	Average	Poor	Very Poor
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

8. In your opinion, what level of knowledge do you have of sexual abuse?

Excellent	Good	Average	Poor	Very Poor
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

9. Is there a clear set out protocol or framework to follow of what should be included in a Competency Report?

Yes **No**

If yes, can you provide the name of the Protocol followed?

10. Who requires a Competency Report?

- South African Police Services
- Prosecutors
- Magistrates

11. When is a Competency Report required?

- After a Child discloses sexual abuse
- Before a child can stand trial

12. From what age is a Competency Assessment required?

- Before age five
- Five to ten years old
- Older than ten years old

13. In all cases involved in child sexual abuse, are Competency Assessments and Competency Reports requested?

- Yes No

14. In your opinion, what level of skills do you have of interviewing children?

- Excellent Good Average Poor Very Poor

15. Have you received training on the following legislation? Please indicate...

- Children's Act 2005 (Act no. 38 of 2005)
- Sexual Offences and Related Matters Amendment Act of 2007
- Domestic Violence Act (No. 116 of 1998)
- Criminal Procedure Act 51 of 1977

SECTION D: INTERMEDIARY SERVICES

1. In your opinion, under what circumstances may an intermediary be used in court to assist children?

Please explain...

2. Are intermediaries used in court to assist children?

Yes No

3. How often are intermediaries used in court for children?

Please explain...

4. If a child is considered not competent to stand trial, the case is then...

5. In your opinion, using intermediary services are adequate in allowing the voices of children to be heard in court?

Yes No
Please explain...

6. In your opinion, for a child to stand trial without an intermediary, which of the following criteria have to be met?

Child's age

Ability to observe

Adequate memory

Ability to communicate

Appreciation of taking an oath (truthful testimony)

7. In your opinion, to assess a child's ability to observe events, have adequate memory abilities to recall events and communicate effectively requires...

8. In your opinion, what types of assessments are required to establish competency of child victims?

9. In your opinion, to establish competency, which of the following tests would you administer?

Anatomical detailed drawings	Anatomical detailed dolls	Feelings chart
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Storytelling	Play therapy techniques	
<input type="checkbox"/>	<input type="checkbox"/>	

Other:

10. In practice, is there a set out protocol or framework to follow to complete an Assessment to determine a child's level of competence?

Yes **No**

If yes, can you provide the name of the Protocol followed

11. Do you have an Interview Protocol unique to the context of South Africa?

Yes

No

If yes, can you provide the name of the Protocol followed

SECTION E: VICTIM SERVICES

1. Do you provide direct services to child victims of sexual abuse?

YES

NO

If yes, please mention a few...

2. Do you link victims to further support services?

YES

NO

If yes, please mention a few...

3. In your opinion, what additional services do you think are required for child victims of sexual abuse?

4. In your opinion, does the training of Forensic Social Workers allow them to be effective in their practice as Forensic Social Workers?

Excellent	Good	Average	Poor	Very Poor
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

5. As a practitioner having firsthand knowledge of practice complications, do you have any recommendations to South African Police Forensic Social Workers to improve on service delivery:

6. In your opinion, what are the gaps in Forensic Social Workers concerning Child Sexual Abuse cases for five to ten year olds?

FURTHER COMMENTS

Thank you for committing your time to expanding the field of Forensic Social Work. Your participation is highly valued.

Ms. J. Campher

MSocSc – Probation and Correctional Practice

University of Cape Town

APPENDIX D: FOCUS GROUP QUESTIONS

Note for the Interviewer:

Explain purpose of the study; tune in and build rapport; comfortable quiet space for tape recording to be possible.

1. What is the role and importance of Competency Assessment and Competency Reports in the Forensic interviewing process?
2. What is required in the Assessment Process from the court of the Forensic Social Workers?
3. What are the legal requirements to establish competency?

(Note: remember to thank interviewee for their participation)

APPENDIX E: PLAGIARISM DECLARATION

1. I know that plagiarism is wrong. Plagiarism is using another's work and to pretend that it is one's own.
2. I have used the Harvard Referencing Style as the convention for citation and referencing. Each significant contribution to, and quotation in, this essay/report/project/... from the work, or works of other people has been attributed and have been cited and referenced.
3. This essay is my own work.
4. I have not allowed, and will not allow, anyone to copy my work with the intention of passing it off as his or her own work.
5. I acknowledge that copying someone else's assignment or essay, or part of it, is wrong, and declare that this is my own work

SIGNATURE: _____

DATE: _____

APPENDIX F: EDITING DECLARATION

8 Belle Ombre Road
Tamboerskloof
Cape Town 8001.

Faculty of Social Work
University of Cape Town
Cape Town.

1 April 2014.

COPY-EDITING

This is to certify that I copy-edited the dissertation "Exploring the Role of Competency Assessments in Forensic Interviewing for Child Victims of Sex Offences between five and ten years old", by Julia Campher for her Masters degree in Social Work: Probation and Correctional Practice.

I am a qualified and experienced copy-editor. I have a Masters degree in English Education from the University of Witwatersrand, and was a member of Professional Editors' Group (PEG) in 2005. Since then I have copy-edited numerous dissertations of students from Wits, UCT, Vaal University of Technology and University of Johannesburg.



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